The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRAPO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 364, noes 59, not voting 11, as follows:

[Roll No. 658]

AYES—364

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—59

Abercrombie
Baker (CA)
Becerra
Beilenson
Berman
Bonior
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Engel
Evans
Fattah
Flake
Foglietta
Ford
Frank (MA)
Gutierrez
Hilliard
Hinchey
Hoyer
Lewis (GA)
Livingston
McDermott
Meek
Mink
Murtha
Myers
Nadler
Olver
Owens
Payne (NJ)
Pelosi
Rahall
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Serrano
Skaggs
Stark
Stokes
Studds
Torres
Torricelli
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Yates

NOT VOTING—11

Bateman
de la Garza
Ensign
Frost
Moakley
Mollohan
Obey
Reynolds
Sisisky
Tucker
Wilson

☐ 1617

Mr. OLVER changed his vote from ''aye'' to ''no.''

Mrs. VUCANOVICH, Mr. POMBO, and Mr. PASTOR changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to establish procedures to provide for a deficit reduction lock-box and related downward adjustment of discretionary spending limits.''

A motion to reconsider was laid upon the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that my name be withdrawn as cosponsor of H.R. 359.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL ACQUISITION REFORM ACT OF 1995

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 219 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 219

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1670) to revise and steamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) or 308(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Government Reform and Oversight. The committee amendment in the nature of a substitute shall be considered by title rather than by section. The first two sections and each title shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI or section 302(f) of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment. The Chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business: *Provided,* That the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the

House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 219 is a noncontroversial resolution. The proposed rule is an open rule providing for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Government Reform and Oversight. After general debate, the bill shall be considered as read for amendment under the 5 minutes rule.

The resolution provides that the bill be considered by title rather than by section, and it provides that the first two sections and each title shall be considered as read. The rule waives points of order against consideration of the bill for failure to comply with section 302(f) and 308(a). Additionally, points of order against the committee amendment in the nature of a substitute for the failure to comply with clause 5(a) of rule 21 or section 302(f) of the Congressional Budget Act of 1974 are waived. The chairman of the Committee on Government Reform and Oversight, Mr. CLINGER, was kind enough to provide the Committee on Rules with a explanation of the waivers that has been included in the Rules Committee report. The resolution allows the Chair to accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and the Chair may postpone votes in the Committee of the Whole and reduce votes to 5 minutes, if those votes follow a 15-minute vote. Furthermore, at the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, Chairman CLINGER, requested an open rule for this legislation. This open rule was reported out of the Committee on Rules by voice vote, without any opposition. Under the proposed rule, each Member has an opportunity to have their concerns addressed, debated, and ultimately voted up or down by this body.

Mr. Speaker, the underlying legislation, the Federal Acquisition Reform Act of 1995 is critical legislation. Each year the Federal Government spends about $200 billion on goods and services, ranging from weapons systems to cleaning supplies. The current system costs too much and is blanketed with redtape. The Secretary of Defense has found that, on average, the Government pays an additional 18 percent on what it buys solely because of requirements it imposes on its contractors. Additionally, the Government's own administrative costs are astronomical. The Government's contracting officials are often mandated to follow step-by-step prescriptions that increase staff and equipment needs. In today's tight budgetary climate we need to get the most for each dollar we spend. I believe this legislation is a step in the right direction. I urge my colleagues to support the rule as well as the underlying legislation.

Mr. Speaker, I sumbit for the RECORD the following material from the Committee on Rules.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of September 13, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	45	74
Modified Closed[3]	49	47	14	23
Closed[4]	9	9	2	3
Totals:	104	100	61	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of September 13, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of September 13, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95)
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95)
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95)
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95)
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95)
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95)
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95)
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95)
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95)
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95)
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95)
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95)
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95)
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95)
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95)
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. MCINNIS. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we support this rule, and the bill it makes in order, the Federal Acquisition Reform Act of 1995. As the gentleman has said, this is an open rule, so Members may offer any amendment that is otherwise in order under the standing Rules of the House. The rule permits the chair to accord priority in recognition to Members whose amendments have been printed in the CONGRESSIONAL RECORD.

This rule also provides for several waivers of sections 302(f) and 308(a) of the Congressional Budget Act. Although we are normally reluctant to waive the Budget Act—and particularly section 302(f), which prohibits spending in excess of a committee's allocation, and is one of the most important safeguards we have to control spending—we understand and accept the necessity of waiving the Budget Act in the cases provided for by this rule.

The rule also waives clause 5(a) of rule XXI, which prohibits appropriations in an authorization bill. Just as we do not normally approve of waiving the Budget Act, we are also reluctant to waive this important rule. However, here, also, we accept the need for the waivers.

All of these waivers are necessary because the bill consolidates a number of Federal contract boards of appeals into one civilian board, and one defense board. Because they authorize pay for board members, they provide for a relatively modest amount of spending—thus, they require Budget Act and rule XXI waivers. However, the consolidation will result in a net savings to the Government.

Mr. Speaker, H.R. 1670 builds upon the Federal Acquisition Streamlining Act that Congress approved last year, further incorporating many of the reforms proposed by Vice President Gore's National Performance Review. This legislation would encourage the substitution of commercial items for goods developed according to unique government specifications, relax reporting requirements for Federal contractors, centralize the bid protest system, and develop better trained procurement personnel. Although the Congressional Budget Office was unable to estimate the amount of savings that this legislation would produce, CBO believes that many of the bill's provisions are likely to reduce costs to the taxpayers.

This is a bill that enjoys broad, bipartisan support in the House. However, significant controversy has emerged over the issue of whether every potential seller will have the opportunity to compete for a government contract, particularly small businesses. That issue is likely to be resolved through consideration of an amendment to be offered by the gentlewoman from Illinois [Mrs. COLLINS] and the gentlewoman from Kansas [Mrs. MEYERS].

Mr. Speaker, to repeat: This is an open rule, which we support. We urge adoption of the resolution so that we can proceed to the consideration of H.R. 1670.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee, and I appreciate his involvement.

Mr. CLINGER. Mr. Speaker, I am pleased to rise in support of the rule and, obviously, in support of the bill, which as has been indicated, has very broad bipartisan support.

Mr. Speaker, the bill represents, I think, a dramatic improvement in the way we go about buying our goods and services at the Federal level. The best that we could do, Mr. Speaker, in terms of lowering the deficit, cutting Federal spending, would be to pass this dramatic improvement in the way we buy goods and services.

It is estimated that we spend 20 percent more for everything we buy at the Federal level, because of the arcane and convoluted and unnecessarily prolix regulations that we have that surround the procurement process.

It is an antiquated process, Mr. Speaker, that results in such outrageous situations where we have an FAA which is charged with protecting the safety of the flying public, so hamstrung by the requirements that they are obliged to deal with to buy new, updated, state-of-the-art technology to ensure the protection of the flying public, it is so outdated that we are at least a generation of technology behind and probably two or three generations behind.

Mr. Speaker, we still operate the entire air traffic control system using vaccum tubes, which we cannot even make in this country and have to purchase abroad. That says there is something seriously wrong with the way we go about buying goods and services.

We made significant progress last year on a very bipartisan basis to reform those procedures. This is the next step. This is an addition to, not in lieu of. It really does build with respect to what we accomplished in the last Congress.

It is also a bipartisan effort and I think it will have, when we get to the final analysis, a very broad bipartisan support, because I think we all recognize that this is one area where there should not be partisan differences in terms of how we go about buying things and how we go about trying to do it in the most efficient way.

Mr. Speaker, there will be amendments offered and that is why I think we need to have an open rule. These amendments deserve a full and open

debate, just as we continue to provide for full and open competition.

I want to express the fact that we think that since this matter was considered some months ago in connection with the Defense Department authorization bill, that we have gone a long distance in meeting the concerns of those who felt that this was somehow going to be harmful to or work against the interests of small business. We have really made a number of significant changes in trying to reach accommodation with the concerns that were legitimately expressed.

□ 1630

I think we have addressed many of those concerns. There are still some concerns out there. There may be amendments that would be offered in this regard, and I would urge resistance to those amendments, Mr. Speaker, not because they are certainly not well-intended. They are. But I think that they are unnecessarily concerned about what this is going to do to the small-business interests.

I think that this will, in effect, really improve the opportunities for small business and, frankly, the community is divided. Some are for this bill. Some are opposed to it. But I think, as the debate develops, we will be able to persuade them, in fact, this bill is going to be very small-business-friendly. In fact, it is going to be much friendlier to business of all persuasions across the board.

Right now, every businessman who wants to sell to the Federal Government has to go through an incredible maze, if you will, and jump over hurdle after hurdle to even become a player in the system. We are trying to eliminate all of that. At the same time, we are trying to make the Government a little more like a business in the way we buy things, and to do that we have to provide a measure, a modicum, not unlimited, but some measure of flexibility and some measure of discretion to the people who are out there on the lines doing the purchasing, doing the buying.

What we have tried to do in this bill is strike a balance between the needs for full and open competition. Nobody is going to be shut out of the door, but also to give the Government the opportunity to define what do we need to ensure that we have full and open competition, enough competition in this particular procurement.

We have procurements that go everywhere from No. 2 pencils to jet engines to massive, huge defense contracts. Those procurements differ from one to the other, and I think there needs to be a measure of flexibility provided to the procurement people who have universally come to us and said, ''Let us do our job. Do not wrap us up like Atlas in all kinds of red tape and all kinds of requirements that prevent us from doing our job. Let us do our job. Trust our judgment to some extent to say we can be reasonable, we can be responsible in how we deal with this.'' I think we achieve enormous savings if we give that modicum, measure, of flexibility to our procurement regime.

Mr. Speaker, I urge support of the rule. I urge support of the bill. Hopefully, we can avoid having any amendments that I think will seriously undermine the ability we are trying to achieve to give that kind of a flexibility or achieve those kinds of savings.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the distinguished ranking member of the full committee.

Mrs. COLLINS of Illinois. Mr. Speaker, I am pleased to rise in support of the rule on which the chairman and I have worked cooperatively on procurement legislation. I have some mixed feelings about bringing this bill to the floor at this time.

As you all know, the House considered a bill virtually identical to H.R. 1670 on June 14, as an amendment to the National Defense Authorization Act. That amendment passed on a bipartisan basis with vote of 420 to 1.

The fundamental difference between the House-passed procurement amendment and H.R. 1670 is that H.R. 1670 does not include my amendment which passed the House to preserve the current full and open competition standard. The failure to include my amendment as a part of this bill is to ignore the will of the House, and to ignore the stated concerns of the small business community.

Small business organizations, which supported my amendment in June, continue to believe that H.R. 1670 will significantly limit the ability of small businesses to fairly compete for Government contracts. An open rule will allow the best opportunity for the House to once again correct this major defect with H.R. 1670.

I intend to offer the same amendment to H.R. 1670, which I offered to the DOD authorization bill and which passed the House. That amendment will protect small businesses by retaining the current procurement standard of full and open competition.

Since the House adopted my amendment to retain full and open competition as part of the Defense authorization bill, Chairman CLINGER has made an effort to move H.R. 1670 closer to the House position. The version of H.R. 1670 which passed the Government Reform and Oversight Committee, does at least state full and open competition as a Federal policy. However, in subsequent provisions, the bill creates large loopholes through which bureaucrats can limit the ability of small businesses to compete for Government contracts. This is the basis for the opposition to title I by the Chamber of Commerce and the small business community.

I am pleased that I have been able to work with Chairman CLINGER on all of the other parts of this bill, and have no amendments to those titles. The bill makes about eight fundamental changes in procurement procedures that Chairman CLINGER has described to you, and I support them.

When we considered this bill in committee, we were in the midst of the Waco hearings, and had little time to work out this one difference. While I respect Chairman CLINGER for pledging to ensure my right to offer the full and open competition amendment to the bill, I believe it is unfortunate that the House will be required to essentially revote on my amendment, which the House endorsed.

Nonetheless, I am prepared to return to the House floor to once again keep the procurement process open to all businesses, small and large. Small businesses are the lifeblood of our economic system, and they deserve a level procurement playing field.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I commend the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER], for coming to the Committee on Rules and asking for an open rule.

Second of all, I do not think we can overstate the importance of this legislation. This Federal Government spends $600 million, over $600 million a day in acquisitions, $600 million a day. We have got to have a system that minimizes the waste and maximizes the efficiency of the system to acquire or to make those type of acquisitions. So I think that it is extremely important that we continue to support this kind of legislation, and I look forward to some of the amendments that we are going to debate.

Mr. Speaker, I yield 4⅔ minutes to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to first of all compliment the chairman, the gentleman from Pennsylvania [Mr. CLINGER], and the chairman, the gentleman from South Carolina [Mr. SPENCE], for putting this bill together, putting a broad coalition of groups interested in expediting the procurement process, making it better for American taxpayers and bringing this through committee and now bringing this to the floor.

I want to address just a couple of issues that will be coming up in this bill that it does that, I think, helps the American people and is going to help that current process, which right now is a very lengthy process. It is a process that, as the chairman noted in his previous remarks, the gentleman from Pennsylvania, adds almost 20 percent to the costs of goods that American taxpayers pay for that are obtained through the procurement process.

First of all, let me talk to you about the procurement integrity certifications part of the current law that are stricken here. In lieu, we have planted some tougher penalties, but instead of the lengthier certification contractors have to go through today, there will be

stricter and more succinct penalties in this current bill.

Today, if a contractor, when they submit a bid to the Government for a Government procurement, has to sign a certification saying that they have no insider knowledge about this procurement, that nobody in the organization has obtained this. Now, how does this work? This means that the organization, the company, the bidder has got to go through every person in that organization who has worked on that particular procurement and have them sign an individual certification saying they have no insider information, and obtain that. After looking at all of those, it is only then that the officer for that corporation can sign that procurement integrity certification to the Federal Government. In turn, the Federal Government contracting officers have to sign certifications based on these other certifications and on their own notes and experiences in that procurement.

The end result is that many times hours are wasted. Reams of paperwork are wasted. To my knowledge, not one person has been prosecuted under these procurement integrity certifications put in as an over-reaction, if you will, to the Ill Wind scandals of the 1980's. So this does away with that but keeps even stricter penalties in place so that prosecutors and the Federal Government will be able to police these but at the same time not add layers and layers of costs on contractors.

The recoupment provision that currently exists under foreign military sales contracts will be eliminated. What does this mean? This means the surcharge now put on American companies selling abroad under FMS contracts will be stricken. We will be more competitive in the international arena as we compete with companies from other countries who are going after foreign procurements under FMS contracts. This will bring us, if you will, into the 21st century and make us more competitive as we move toward the borderless economy and into international trade.

Finally, the consolidation of bid protest appeals, I think, is going to help expedite the process for everybody. Right now, there is a lot of gaming that goes on in terms of if a contractor loses a bid and they are the incumbent contractor and they lose their recompete, many times they can file a bid protest, tie that protest up and keep on performing that work, often at a higher price than somebody who has beaten them in fair competition, simply because of the entanglements and the opportunities they have to game the process through agency protests, GAO process, board of contract appeals, whatever. This expedites that flow procedure. It allows postbid discovery and, I think, will help the process and speed it up.

Finally, if I can briefly address the Collins-Meyers amendment that may be offered to this, I think one of the major problems we have in the process today in procurement is the fact that many very dedicated public servants who are dedicated to save the public money, dedicated to getting the best costs they can for the Government, and they are working very hard, but in many cases they are performing tasks that do not need to be performed. They are operating under regulations that never should have been written, rules that never should have been written. They are filling out forms that should never have been printed. This is makework, and it is a waste in many cases.

What this legislation does is it takes 7 pages of the United States Code, of a basically cook book, and allows the buyers, the Government procurement officer in charge at that point, to move through and, of course, full and open competition standard remains of the amendment that the gentlewoman from Illinois [Mrs. COLLINS] put through during the authorization schedule. We now get rid of those seven pages of authorization and will allow that buyer the appropriate discretion they have so they can expedite that procedure.

I urge support of this bill and rule.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCINNIS Mr. Speaker, I yield 3 minutes and 9 seconds to the gentleman from New Mexico [Mr. SCHIFF], the vice chairman of the committee, my good friend.

Mr. SCHIFF. Mr. Speaker, within the first 9 seconds I want to thank the gentleman for yielding me this time.

Mr. Speaker, I want to say, first, I hope the House realizes how much H.R. 1670 is needed. The fact of the matter is that procurement is just one of many areas where our Government is operating years, if not, in fact, decades behind where private enterprise is now functioning.

The provisions contained in H.R. 1670 are needed to bring the Government's processes more current so that the Government can better serve itself, that is the taxpayers who are funding it, and better serve those businesses who wish to do business with the Government.

Specifically with respect to small business, we believe that if H.R. 1670 becomes law, that procurement will become easier so that more small businesses will be enticed to offer to do business with the Government, when many small businesses might not do so today because of the cumbersome nature of the whole procurement process.

But I want to take an additional moment to address specifically the concerns raised by the gentlewoman from Kansas [Mrs. MEYERS] who, of course, is the distinguished chairman of the Committee on Small Business, and the gentlewoman from Illinois [Mrs. COLLINS], who is the distinguished ranking member of the Committee on Government Reform and Oversight. There are, in fact, no two Members in Congress who are more vigilant in looking at small-business interests than these two Members. When they express concerns, it is of concern to me.

The concern, I believe, though, is misapplied. I hope we can work something out between now and the time this bill might become law.

☐ 1645

But the concern is that there is no longer going to be free and fair, equal, competition. The fact of the matter is there will continue to be free and fair competition for small business, for all business, under H.R. 1670. The fact is that all businesses could submit bids just like they do now.

Here is the difference. Earlier in the procurement process Government procurement officials can make a decision that certain bids, for whatever reason, maybe a lack of ability to perform in a certain area that is desired by the Government in this particular contract, whatever it might be, that the offerer, the business, is not qualified to proceed further in this bid process.

Now, first of all the suspicion is that there might be some malfeasance on the part of Government officials that will discriminate against small business. Malfeasance is an issue for oversight, and, if H.R. 1670 becomes law as it is, then I think the Committee on Small Business and the Committee on Government Reform and Oversight should pay very close attention to its implementation. But the fact is that denial at the beginning of the process of a bid is still appealable. The Government official must state why a particular bid is not to proceed further in the process, and the business that does not agree with that can appeal that and still have a remedy.

The point is that by allowing Government officials the discretion that private business has to start filtering through offers at the beginning of the process we can save a great deal of time and money not only for the Government in terms of its procurement process of having to review the same bids over and over again, if they qualify, but to the businesses, too.

Mr. MCINNIS. Mr. Speaker, I yield 2 minutes 50 seconds to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. I will make sure we do that accurately, Mr. Speaker.

I rise today in support of H.R. 1670, the Federal Acquisition Reform Act of 1995, and it is, to my colleagues I would say, very interesting. It is not every bill that we have that the Americans for Tax Reform and the National Taxpayers Union have both come together to support this legislation. The Government spends over $200 billion each year in goods and services and pays a 20-percent premium. If H.R. 1670 removes even one-half of the red tape and paperwork, then we can easily save $20 billion a year.

The National Taxpayers Union has been very clear on its support of this

legislation. H.R. 1670; according to them they said this legislation will reform the Federal procurement system, which is a critical component of fiscal discipline. As my colleagues know, Mr. Speaker, the system currently is riddled with bureaucratic red tape and outdated procedures, and this antiquated system is in desperate need of fundamental reform. Each year the Government spends over $2 billion. Taxpayers have long been saddled with the excess costs of maintaining this expensive program, and by some estimates today the system forces taxpayers to pay over a 20-percent premium on all Federal purchases.

Enabling the procurement process, Mr. Speaker, to open up to both large and small businesses will save taxpayers billions of dollars not only this year, but in the future. Reaching the goal of a balanced budget by the year 2002 will require implementation of more efficient and more cost-effective programs in every area of Government.

So, Mr. Speaker, we are leading by example with this bill because it will bring a more rational approach to the management of these programs. The Federal Acquisition Reform Act will prove to be the key to a new era of Federal acquisition policy that benefits taxpayers and simplifies the rules for contractors.

Mr. Speaker, I urge my colleagues to support 1670 and to remind them the Americans for Tax Reform and the National Taxpayers Union have endorsed this legislation.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am excited about the legislation. It is time to move on to the legislation in regards to that.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCINNIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 20, as follows:

[Roll No. 659]

YEAS—414

Abercrombie	Baldacci	Bereuter
Ackerman	Ballenger	Berman
Allard	Barcia	Bevill
Andrews	Barrett (WI)	Bilbray
Archer	Bartlett	Bilirakis
Armey	Barton	Bishop
Bachus	Bass	Bliley
Baesler	Bateman	Blute
Baker (CA)	Beilenson	Boehlert
Baker (LA)	Bentsen	Boehner
Bonilla	Franks (CT)	Livingston
Bonior	Franks (NJ)	LoBiondo
Bono	Frelinghuysen	Lofgren
Borski	Frisa	Longley
Boucher	Funderburk	Lowey
Brewster	Furse	Lucas
Browder	Gallegly	Luther
Brown (CA)	Ganske	Maloney
Brown (FL)	Gejdenson	Manton
Brown (OH)	Gekas	Manzullo
Brownback	Gephardt	Markey
Bryant (TN)	Geren	Martinez
Bryant (TX)	Gilchrest	Martini
Bunn	Gillmor	Mascara
Bunning	Gilman	Matsui
Burr	Gonzalez	McCarthy
Burton	Goodlatte	McCollum
Buyer	Goodling	McCrery
Callahan	Gordon	McDade
Calvert	Goss	McDermott
Camp	Graham	McHale
Canady	Green	McHugh
Cardin	Greenwood	McInnis
Castle	Gunderson	McIntosh
Chabot	Gutierrez	McKeon
Chambliss	Gutknecht	McKinney
Chapman	Hall (OH)	McNulty
Christensen	Hall (TX)	Meehan
Chrysler	Hamilton	Meek
Clay	Hancock	Menendez
Clayton	Hansen	Metcalf
Clement	Harman	Meyers
Clinger	Hastert	Mfume
Clyburn	Hastings (FL)	Mica
Coble	Hastings (WA)	Miller (CA)
Coburn	Hayes	Miller (FL)
Coleman	Hayworth	Mineta
Collins (GA)	Hefley	Minge
Collins (IL)	Hefner	Mink
Collins (MI)	Heineman	Molinari
Combest	Herger	Montgomery
Condit	Hilleary	Moorhead
Conyers	Hilliard	Moran
Cooley	Hinchey	Morella
Costello	Hobson	Murtha
Cox	Hoekstra	Myers
Coyne	Hoke	Myrick
Cramer	Holden	Nadler
Crane	Horn	Neal
Crapo	Hostettler	Nethercutt
Cremeans	Houghton	Neumann
Cubin	Hoyer	Ney
Cunningham	Hunter	Norwood
Danner	Hutchinson	Nussle
Davis	Hyde	Oberstar
Deal	Inglis	Obey
DeLauro	Istook	Olver
DeLay	Jackson-Lee	Ortiz
Dellums	Jacobs	Orton
Deutsch	Jefferson	Owens
Diaz-Balart	Johnson (CT)	Oxley
Dickey	Johnson (SD)	Packard
Dicks	Johnson, E. B.	Pallone
Dingell	Johnson, Sam	Parker
Dixon	Johnston	Pastor
Doggett	Jones	Paxon
Dooley	Kanjorski	Payne (NJ)
Dornan	Kaptur	Payne (VA)
Doyle	Kasich	Pelosi
Dreier	Kelly	Peterson (FL)
Duncan	Kennedy (MA)	Peterson (MN)
Dunn	Kennedy (RI)	Petri
Durbin	Kennelly	Pickett
Edwards	Kildee	Pombo
Ehlers	Kim	Pomeroy
Ehrlich	King	Porter
Emerson	Kingston	Portman
Engel	Kleczka	Poshard
English	Klink	Pryce
Eshoo	Klug	Quillen
Evans	Knollenberg	Quinn
Everett	Kolbe	Radanovich
Ewing	LaFalce	Rahall
Farr	LaHood	Ramstad
Fattah	Lantos	Rangel
Fawell	Largent	Reed
Fazio	Latham	Regula
Fields (LA)	LaTourette	Richardson
Fields (TX)	Laughlin	Riggs
Filner	Lazio	Rivers
Flake	Leach	Roberts
Flanagan	Levin	Roemer
Foglietta	Lewis (CA)	Rogers
Foley	Lewis (GA)	Rohrabacher
Forbes	Lewis (KY)	Ros-Lehtinen
Ford	Lightfoot	Rose
Fowler	Lincoln	Roth
Fox	Linder	Roukema
Frank (MA)	Lipinski	Roybal-Allard
Royce	Souder	Velazquez
Rush	Spence	Vento
Sabo	Spratt	Visclosky
Salmon	Stark	Waldholtz
Sanders	Stearns	Walker
Sanford	Stenholm	Walsh
Sawyer	Stockman	Wamp
Saxton	Stokes	Ward
Scarborough	Studds	Waters
Schiff	Stump	Watt (NC)
Schroeder	Stupak	Watts (OK)
Schumer	Talent	Waxman
Scott	Tanner	Weldon (FL)
Seastrand	Tate	Weldon (PA)
Sensenbrenner	Tauzin	Weller
Serrano	Taylor (MS)	White
Shadegg	Taylor (NC)	Whitfield
Shaw	Tejeda	Wicker
Shays	Thomas	Williams
Shuster	Thompson	Wise
Skaggs	Thornberry	Wolf
Skeen	Thornton	Woolsey
Skelton	Thurman	Wyden
Slaughter	Tiahrt	Wynn
Smith (MI)	Torres	Yates
Smith (NJ)	Torricelli	Young (AK)
Smith (TX)	Towns	Young (FL)
Smith (WA)	Traficant	Zeliff
Solomon	Upton	Zimmer

NOT VOTING—20

Barr	Ensign	Sisisky
Barrett (NE)	Frost	Torkildsen
Becerra	Gibbons	Tucker
Chenoweth	Moakley	Volkmer
de la Garza	Mollohan	Vucanovich
DeFazio	Reynolds	Wilson
Doolittle	Schaefer	

☐ 1708

Mr. NADLER and Mr. HILLIARD changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 219 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1670.

☐ 1711

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1670) to revise and streamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes, with Mr. WELLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes, and the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this bill, the Federal Acquisition Reform Act of 1995, is an important piece of legislation, which the gentleman from South Carolina

[Mr. SPENCE], chairman of the Committee on National Security, and I introduced along with several other members of our committees.

The bill which we bring before you today represents the efforts of many of our colleagues on both sides of the aisle who have joined us in rejecting the status quo and who are prepared to lead the way toward reforming a system which for years has become increasingly more arcane, more convoluted, more difficult to deal with, and therefore, more costly, both to business, who wants to be a participant in bidding for projects with the Federal Government, and certainly for the Government.

Members have heard it mentioned here today that the cost to the Federal Government is about a 20 percent premium that we pay for all goods and all services that we purchase. So we are trying to seek fiscal discipline, and this is the surest and best way we can go about reducing Federal spending and moving us toward a balanced budget.

Mr. Chairman, this bill sends a message to our employer, the American taxpayer, who frankly has been paying an extraordinary premium for the services that he has been receiving from the Federal Government. The message is that we are serious about changing the way the Government operates. We have to ensure that this country's resources are allocated properly, and this bill provides the answer.

The bill has been very thoughtfully crafted. It does a number of things, Mr. Chairman. First of all, it makes us more like a business. I mean, why should the Federal Government be involved in processes that add cost to the taxpayer? Why can we not seek goods and services and seek competition the way businesses do?

□ 1715

Second, it dramatically reduces the amount of paperwork and the incredible amount of regulatory overkill which we have imposed upon all of our businesses.

Frankly, Mr. Chairman, what we have seen is fewer and fewer people are willing to participate in the process, are willing to really get into the competition, because the process is so complex and so costly to them that they do not want to do it. We are trying to make that a simpler process. We are trying to say Government should be more like business. We should not have $500 hammers. We should be able to come into the 20th century because of our technology, which we are not able to do because of the restrictions.

Mr. Chairman, I would urge support for the bill.

Mr. Chairman, I reserve the balance of my time.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with the exception of the limitation on open competition, a change that will hurt small business, I support H.R. 1670, the Federal Acquisition Reform Act of 1995. Chairman CLINGER and I have worked cooperatively on this bill and he is to be commended for his leadership in attempting to modernize and streamline the Federal acquisition process. I also appreciate his ongoing efforts to reach a consensus with Democratic members of the Government Reform and Oversight Committee on procurement reform legislation, including his incorporation into H.R. 1670 most of my suggestions as well as those offered by the ranking Democratic member of the Subcommittee on Government Information and Technology, Representative MALONEY.

In brief, the bill represents meaningful reform and enhancement of Federal procurement policy. It allows for the increasing decentralization of procurement authority, and elicits greater costeffectiveness for the Federal Government and the taxpayer.

Let me begin by describing some of the positive features of this bill. First, H.R. 1670 includes my provision that improves Government procurement management practices by requiring Federal agencies to make more effective use of the cost-management tools and procedures known generally as value engineering. Value engineering is a longstanding and widely accepted technique in both the public and private sectors that, despite its proven capabilities, remains severely underutilized in the Federal acquisition process.

Numerous General Accounting Office and Inspectors General reports, independent studies, and even the Presidentially appointed Grace Commission, have demonstrated that the under utilization of value engineering by Federal agencies has resulted in billions of dollars in lost opportunities to reduce costs to the Federal Government. This provision will ensure greater use of value engineering procedures, and will thereby reduce capital and operation costs, and improve and maintain optimum quality of construction, administrative, program, acquisition and grant projects.

Second, H.R. 1670 now incorporates my language retaining the ''knowing'' standard for criminal violations of our procurement integrity laws, and increases the maximum criminal penalty from 5 to 15 years. This provision will facilitate the Justice Department's ability to prosecute criminal and civil procurement fraud cases.

Third, H.R. 1670 includes important provisions regarding accountability on sole-source contracting for commercial products. While I still believe that the complete elimination of the simplified acquisition threshold contained in this bill will raise problems, this provision will place limits on its use and will help to ensure that an adequate level of competition is maintained with the expanded use of commercial items.

Finally, H.R. 1670 includes a provision authored by Representative MALONEY, the Subcommittee ranking Democratic member, that improves the performance capability of the frontline contracting personnel. The bill requires civilian agency heads to adopt education, training and incentive features that raise the level of excellence and professionalism of the acquisition work force. It is this work force that will have to respond properly to the increasing decentralization of authority.

The inclusion of those provisions in H.R. 1670 substantially improves this legislation, and again, I applaud Chairman CLINGER for approaching this matter in the bipartisan spirit with which any acquisition reform effort should be undertaken. However, despite our efforts to reconcile our differences on title I of the bill, Chairman CLINGER and I remain far apart on its revision of the ''full and open competition'' standard.

Title I would change the meaning of the current ''full and open competition'' standard mandated in the Competition in Contracting Act of 1984 [CICA] by adding the words ''open access'' to its definition and by adding new exceptions to the standard. The substitution of clear statutory standards for this unknown hybrid is unnecessary, potentially harmful, and flies in the face of reform, modernization and streamlining goals that we all share.

Mr. Chairman, I agree that Federal procurement procedures should be streamlined and made more cost-efficient for both the Government buyer and the vendor. It is no secret that many vendors are spending large sums of money bidding on Government contracts for which they have absolutely no chance to win, and that Government contracting officers are overburdened evaluating bids that are essentially noncompetitive. However, the hearing record on H.R. 1670 does not establish that the revision of the current ''full and open'' competition standard is necessary to resolve these problems.

Title I, as it stands, represents a fundamental departure from longstanding Federal procurement philosophy and will undermine the basic principles of free enterprise. This is a serious defect in H.R. 1670 that I intend to correct with an amendment.

On June 14, when the House considered a nearly identical procurement reform measure on the DOD Authorization bill, the House supported my amendment to retain the full and open competition standard for procurement. That amendment was passed with bipartisan support, and I particularly want to commend the chairwoman of the Small Business Committee, JAN MEYERS, who worked so hard on behalf of the amendment.

My amendment had the strong support of the small business community, as well as the U.S. Chamber of Commerce. The bill before us today, unfortunately, does not include my amendment, and instead would grant a broad new authority to procurement officials

on limit competition. Therefore, I will once again be offering an amendment to restore the full and open standard which the House endorsed in June.

While I maintain reservations about other portions of the bill, I believe that H.R. 1670 can provide a substantially improved legislative structure for Government procurement if the current statutory interpretation of the full and open competition standard is preserved in title I.

I reserve the balance of my time.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CHRYSLER], a very active member of the committee.

Mr. CHRYSLER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, as a person with 25 years of private sector business experience and as an entrepreneur, I am pleased that the committee is taking up this bipartisan legislation, and I want to declare my strong support for H.R. 1670. It is unfortunate that some have portrayed this legislation as an anti-small business bill.

Mr. Chairman, I am small business. I have firsthand experience with the Federal procurement system, and I can tell you from my personal experience that this bill that we are offering is better. There is misinformation circulating on this bill that is simply incorrect, and it is the type of misinformation and rumors that can undermine valuable legislation.

Mr. Chairman, it is important to emphasize that this bill will help all businesses, both small and large, to participate more fully in the Federal contracting process. H.R. 1670 will increase the use of commercial practices, cut redtape, streamline dispute resolutions, protect against sole source contracting, while at the same time maintaining the necessary safeguards for small business.

H.R. 1670 removes the cost accounting standards from the commercial item purchases, which require an immense amount of information for reporting costs. The elimination of this government-unique requirement will save companies millions of dollars.

Mr. Chairman, everyone agrees the system is outdated. It is time that the Government start operating its procurement system as a business would. The time is now for reforming the system and moving it into the 21st century. We should take this opportunity to make a difference and vote for H.R. 1670 without any weakening amendments.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the chair of the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Chairman, the gentlewoman from Illinois [Mrs. COLLINS] and I both are offering an amendment which would restore full and open competition to bidding. Now, I know that the gentleman from Pennsylvania [Mr. CLINGER] says that there is full and open competition in this bill, but it is defined as open access, which is then further defined, which then says that the regulators will really define what is full and open competition, and we can get into that more a little later.

But to say that this bill has full and open competition is simply not accurate. The gentlewoman from Illinois [Mrs. COLLINS] will be offering an amendment that just restores full and open competition, and I will be offering an amendment that restores full and open competition but, in addition to that, seeks to set forth some processes to answer some of the very real concerns that the gentleman from Pennsylvania [Mr. CLINGER] has.

We want to give him some processes to screen out people early in the process that do not have a chance of winning the bid. After all, it is not to small business' benefit to put a lot of money into a bid they cannot win, and that is not to the benefit of the Government either, because it costs us time and money. So what we are trying to do is preserve real opportunity in the procurement process.

Right now small business is a player in Federal procurement. Ninety percent of the firms providing supplies, services and construction for the Government are small businesses. But while they dominate numerically, these small businesses account for about 18 to 20 percent of the dollars awarded.

Mr. Chairman, over half of these awards are through full and open competition, and that number is growing. We heard regular testimony in the Committee on Small Business that half of all Government procurement dollars are awarded for large contracts, too big for small business. That means that 90 percent of the contractors are competing for half of the shrinking Federal purchasing pie.

Mr. Chairman, the biggest concern among the small business community is access. All they want is a chance to compete, to show that they can do the job. But H.R. 1670, under the guise of procurement reform, will take away that chance to compete by allowing faceless bureaucrats to take a small businessman or woman's opportunity away with the stroke of a pen.

Mr. Chairman, small business supports procurement reform, but, more important, small business supports competition. H.R. 1670 is supposed to simplify the procurement by weeding out bids from firms that have no chance at winning a contract. Fair enough, but how?

In title I, H.R. 1670 eliminates full and open competition in favor of competition whenever it is feasible or appropriate or efficient. Who decides feasibility? Some agency functionary. Who decides what is efficient? That same bureaucrat, the same people who gave us $600 hammers and costly coffee pots.

We will be submitting letters from the Inspector General of the Department of Defense, and from the Department of Veterans Affairs, saying ''Do not do away with full and open competition.'' We will submit letters from a dozen or more small business groups, among them the Chamber of Commerce and Small Business United, and the Small Business Legislative Council and Women's Business Owners, many of them seeking to retain full and open competition.

I think my bill, with the processes set forth, responds more to what the concerns of the gentleman from Pennsylvania [Mr. CLINGER], are. But whatever we do, I think we must retain full and open competition.

□ 1730

Mr. CLINGER. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. HORN], chairman of the Subcommittee on Government Management.

Mr. HORN. Mr. Chairman, I rise in support of this landmark procurement reform bill. I ask my colleagues to oppose any amendment offered which would weaken this bill.

The current acquisition system saddles businesses, both small and large, with a daunting array of red tape and mandates. These restrictions make doing business with the Federal Government an administrative nightmare. H.R. 1670 would revolutionize government purchasing, something long overdue, in order to create a system that costs less and works better. It operates under a very simple proposal: streamline, standardize, and save.

Unfortunately, H.R. 1670 has been the subject of a significant amount of misinformation concerning small business and its impact on small business. It is time to clear up these misunderstandings. H.R. 1670 is good for small business.

At the heart of H.R. 1670's reforms is the empowerment of government purchasing officers. Instead of only shuffling the large reams of paper required to fulfill the unique government requirements, at the present time, purchasing officers will now evaluate the procurement proposals and make a decision. This reform streamlines the procurement process, empowers government workers, and creates a more efficient, more businesslike procurement process.

Every business, both large and small, will still have access to the protest process if they think the procurement officer who made that decision chose incorrectly. In fact, we are also improving the efficiency of the protest process as well. The 11 current protest boards, each operating with their own rules, regulations, and bureaucratic hoops, will be consolidated into two boards: One for defense procurement and one for nondefense procurement. A small company will not have to learn

new rules for each and every government bid. The process is both streamlined and standardized.

In short, H.R. 1670 provides the authority for government purchasers and industry providers to use sound business practices in acquiring and selling goods and services. H.R. 1670 provides the commonsense answers to the very real problems of an overly bureaucratic system without eliminating small business protections. With support for H.R. 1670, small business finally can participate in a Federal marketplace that uses sound business practices. And, finally, it saves the taxpayers money.

I urge Members' vigorous support for H.R. 1670 and ask my colleagues to oppose any weakening amendments.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5½ minutes to the gentlewoman from New York [Mrs. MALONEY], the ranking Democratic member.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Chairman, I rise in reluctant opposition to H.R. 1670, the Federal Acquisition Reform Act, offered by the chairman of the Committee on Government Reform and Oversight, Mr. CLINGER.

I share the chairman's goal to shake up the system, streamline it, and cut the red tape. I thank the chairman for his genuine hard work on this issue, and I thank him for his sincere efforts to reach a bipartisan consensus on this bill. We are very close to that consensus.

Unfortunately, there are several unaddressed fundamental problems with the substance of this bill. This bill alters the longstanding principle of full and open competition for Federal contracts. Members will hear that it retains the words ''full and open competition,'' true. But the problem is, it adds new words, loopholes, blank checks, and qualifiers. The new language does not preserve the old standard, which is the best standard for saving taxpayers' dollars and allowing small businesses to compete in the procurement process.

Under this bill, contracting personnel are authorized to use other than competitive procedures under two new and excessively broad exceptions to competition; namely, when the use of competitive procedure is not, and I quote, ''feasible or appropriate,'' under regulation to be prescribed, another blank check for agency contracting personnel.

Mr. Chairman, I really do not understand the other party's support for this part of the bill. I join the gentlewoman from Illinois [Mrs. COLLINS] in lauding, really, the chairman of the committee on many fine parts of the bill. But Members of that party are regularly pressing in this body for cost and risk assessment to control the bureaucrats in the area of health, security, and environment. But in this bill, they give blank checks to these bureaucrats for the procurement of over $200 billion of taxpayers' money in Federal procurement.

The case to replace full and open competition has not been made. In the hearings that were held, no one testified in support of removing full and open competition. In fact, many people, particularly small business, testified in support of it.

I would like submit into the RECORD a letter from the deputy inspector general of the Department of Defense to the gentlewoman from Illinois [Mrs. COLLINS] that very clearly states his belief that this fully and open standard must be maintained to protect taxpayers' dollars and to allow small businesses to compete in the process.

Also the bill robs money from American taxpayers. Existing law says that, when a defense contractor sells weapons and technology to a foreign government, research and development funded by taxpayers, then the defense contractor must pay a portion of profit back to the Government to pay for that research and development The recovery of funds is called recoupment. The authors of this bill are eliminating recoupment, calling it a tax on American defense contractors.

I say recoupment gives a fair return for the American taxpayers' investment in the research and development of new weapons and technology. I intend to offer an amendment to restore it, and it would mean well over a billion dollars to our Treasury over 5 years.

Finally, the Clinger bill allows simplified acquisition procedures for the purchase of all so-called commercial products, no matter what the dollar value.

Last year we passed the Federal Acquisition Streamlining Act, a landmark bill that raised the threshold for simplified procedures to $100,000 and $250,000 after the implementation of electronic bulletin boards and Federal procurement. This provision allows officials to purchase basic goods like salad dressing and small items without undue red tape.

It is a good bill and I support it. However, this bill, H.R. 1670, would entirely eliminate any threshold. It would not cut red tape, since 90 percent of all purchases are under $100,000.

In the name of simplifying the procurement statutes, this bill grants regulation writers sweeping authority to establish procedures and guidelines. That seems to me completely contrary to the professed Republican view that these regulators need to be restrained.

With a few changes, H.R. 1670 could represent an excellent second step to follow the changes made last year and those made by Vice President GORE. Until those changes are made, I must oppose this bill.

Mr. CLINGER. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. EHRLICH], another freshman, a very valuable member of the committee.

Mr. ERHLICH. Mr. Chairman, I rise in strong support of H.R. 1670. I applaud the leadership and diligent work of the chairman. It is a pleasure to work with such a fine gentleman and members of the committee.

Mr. Chairman, H.R. 1670 proposes a procurement system that Government can manage more efficiently and effectively as well as a system that will benefit all American taxpayers. Mr. Chairman, Federal procurement should be of interest to every American taxpayer. In the end, the $200 billion—with a B—dollars the Federal Government spends every year on procurement functions is a nondiscriminating tax on every American citizen.

Mr. Chairman, fundamental reform of how the Federal Government works has been the backbone behind just about everything we have debated and voted upon on this floor over the past 8 months. Business as usual is no longer the business at hand in this Congress. This Congress is changing the way Washington works.

During the next few weeks, we will be deciding how to balance the Federal budget. But this fight will mean nothing, Mr. Chairman, if we perpetuate a Federal Government which saddles itself with the gross inefficiencies of an out-of-date procurement system. American taxpayers not only deserve a balanced budget, Mr. Chairman, but also a Federal Government cooperating to preserve our country's fiscal integrity.

I have often remarked how our businesses are beset by excessive and burdensome regulations and how these costs are ultimately passed on to the consumer. Well, Mr. Chairman, the Federal procurement process is a perfect example of how the Government itself can become the victim of its own overregulation.

I have said this before. It is a vicious cycle, Mr. Chairman. The least of our worries now is a shortage of laws regulating Federal procurement, Mr. Chairman. The thousands of pages I am holding here in my hand constitute the Federal acquisition regulations. They must be streamlined.

H.R. 1670 assures the business community that competition in the Federal procurement process remains full and open. The Federal procurement system has been hampered by its own unnecessary government-unique requirements. Its costs are escalated by its own rules and regulations, and its ability to promote free and open and full competition among the private sector is stifled by the red tape of its own bureaucracy. Please support H.R. 1670.

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, may I inquire how much time remains on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 21 minutes remaining, and the gentlewoman from Illinois [Mrs. COLLINS] has 12½ minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT], another very

valuable and contributing member of our committee.

Mr. GUTKNECHT. Mr. Chairman, I thank the chairman of the Committee on Government Reform and Oversight for yielding time to me.

We just heard from my colleague, the gentleman from Maryland [Mr. EHRLICH] about the amount of regulation that we have in terms of Government procurement. Let me see if I can explain what that really means ultimately to the taxpayers.

Earlier this year I was visiting with the gentleman from California [Mr. HUNTER] who chairs one of the committees or subcommittees that is responsible for buying items for the Department of Defense. He told me that in the Department of Defense we have something like 106,000 people who are listed as buyers. That is the bad news. The news gets worse. It is estimated they may have as many as 200,000 managers of those 106,000 buyers.

We buy approximately one F–16 fighter aircraft a week. To buy that fighter aircraft, we have something like 1,646 buyers. Just about one F–16 a week. And part of the reason it takes so many buyers and so many administrators and so many managers—and that is just the Department of Defense, that is repeated all throughout the Federal Government—is because of all of these rules and regulations that we have put upon the procurement process.

Earlier this year I met with some electronics manufacturers. One of them gave me this little electronic disk, it is a little circuit board. This circuit board goes into an M–1 Abrams tank. It costs the manufacturer about $2 to manufacture this board. They sell it to the Department of Defense for $15, in part because they have to jump through all of these hoops to do business with the Federal Government.

This is a very important bill, my colleagues. It will ultimately, I think, save the taxpayers billions of dollars. It makes common sense. As a matter of fact, one example, it is estimated that this could save in the purchase of each one of those F–16 fighter aircraft, we might be able to save as much as $2 million. That is real money.

This makes common sense. This is the kind of thing I think the voters voted for back in November. So I strongly support H.R. 1670, and I thank the gentleman for yielding time to me.

□ 1745

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I rise in support of the Clinger-Spence procurement reform initiative to untangle the current mass of requirements that make up the Federal procurement system. These requirements lead simply to too much money being spent for too little product. In fact, studies show that such Government-specific mandates add a 20-percent premium to the $200 billion the Federal Government spends annually on the goods and services it needs to operate.

It is particularly important during this time of declining Federal resources that we find ways to allocate our resources in a more thoughtful, meaningful and efficient manner. H.R. 1670 provides part of the solution by transforming the current complex web of rules into a more common sense approach to doing business with the Government, much like that used by worldclass commercial firms.

This legislation before us represents a significant shift in the operation of our Federal procurement system to meet the needs of the American taxpayer. I wholeheartedly support this reform effort and urge my colleagues to support this measure and oppose any weakening amendments.

Better Government does not mean bigger Government—it means more efficient Government. This is the message we will be sending today if we support this legislation. It is my pleasure to join with my colleagues in support of H.R. 1670, the Federal Acquisition Reform Act of 1995. This legislation effectively changes the way the Federal Government buys goods and services and revolutionizes the current procurement system.

As chairman of the Budget Committee's National Security Working Group, I am pleased to note that H.R. 1670 incorporates some of the changes recommended in legislation developed by the Working Group—H.R. 1368, the Department of Defense Acquisition Management Reform Act of 1995.

H.R. 1670 streamlines many of the unnecessary procedures in the current system which increases costs to the Department of Defense, the Government's largest single buyer, and therefore meets the needs of American taxpayers, who pay for our Nation's defense.

The Federal Acquisition Reform Act rewards people in Government who can get the job done on time while holding down costs.

I would like to thank Chairman CLINGER and Chairman SPENCE for their diligence and perseverance in pursuing such bold reforms and urge my colleagues to support H.R. 1670 without any weakening amendments.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Chairman, I rise in support of the Clinger-Spence procurement reform initiative to untangle the current mass of requirements that too often have our Federal managers tied up in knots. These managers have to select goods and services according to how easy they are to procure rather then how good the quality is.

Would you buy a computer that way? How about medicine, or a new building? Every year Uncle Sam buys over $200 billion worth of goods and services, and he does it exactly that way. Whether we are buying paper clips or tanks, this tacks on a 20-percent premium to the price tag. Its Government-specific mandates and requirements leads to too much money being spent for too little product.

The bottom line is we cannot, and even if we could we should not, indulge in such regulation. With declining Federal dollars, we have to find ways to allocate our resources in a more productive manner.

We talk a lot in this Chamber about getting rid of Government waste. Today we can take and pass a vote for doing exactly that. I wholeheartedly support this reform effort. It is a big giveback to the American taxpayer with this effort. I urge my colleagues to support this measure and, frankly, to oppose any weakening amendments. It is an important step towards reforming and providing common sense towards the procurement efforts in Congress. It saves money for exactly the same bottom line. For that, I think we owe a great deal of gratitude to the gentleman from Pennsylvania [Mr. CLINGER] and the gentleman from South Carolina [Mr. SPENCE]. I believe we should all support this measure.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], a stalwart member of the committee.

Mr. BLUTE. Mr. Chairman, the legislation before us, H.R. 1670, the Federal Acquisition Reform Act, will enable businesses to compete much more effectively in the Federal marketplace. Each year our Government spends approximately $200 billion for goods and services ranging from weapons systems to everyday commodities. According to a report prepared by the Secretary of Defense, the Government pays an additional 20-percent premium for the goods and services it acquires solely because of the requirements it imposes on its contractors, a 20-percent premium. Clearly, some requirements are needed. But taxpayers pay a premium for many unnecessary, duplicative procedures.

H.R. 1670 streamlines these procedures without compromising any necessary safeguards. H.R. 1670 reaffirms the underpinnings of the Government's acquisition system by placing in statute the policy of Government reliance on the private sector to supply the products and services the Government needs. This has been a longstanding administrative policy of the Federal Government since the days of Eisenhower. It is particularly significant at this time, as we are reassessing the role of Government to reinforce our reliance on the free enterprise system as the source of goods and services to fulfill the public's needs.

I commend the chairmen, the gentleman from Pennsylvania [Mr. CLINGER] and the gentleman from South Carolina [Mr. SPENCE] for bringing forth this important and commonsense legislation. This is truly reinventing government. Even more, it

is entrepreneurial government at its best.

I urge my colleagues to support H.R. 1670, without any weakening amendments, in order to let the system meet the needs of the Government, industry, and ultimately and importantly, the taxpayer.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am a bit confused when I hear the other side of the aisle talking about weakening amendments. It seems to me the amendments that I have before me are all amendments that are going to be very, very helpful.

Mr. Chairman, it has been my understanding that free and open competition is the American way, that it is something we have always wanted. There is no way that free and open competition is going to be harmful to the American people. There is no way that free and open competition is going to be more costly to those of us who are taxpayers, and we are all, in fact, taxpayers. I just do not understand the rationale when the other side of the aisle seems to be so thoroughly against free and open competition.

No place have I seen at all where there is a disagreement by the U.S. Chamber of Commerce which says that free and open competition is what we need. We have not been misguided by what their letter has said to us. It just seems to me it is something we ought to all keep in mind.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New Hampshire [Mr. BASS], a member of the Committee on Government Reform and Oversight.

Mr. BASS. Mr. Chairman, I rise in support of H.R. 1670. Before my colleagues vote to considerably weaken this bill, I would ask them to consider the reforms being offered here today by the chairmen, the gentleman from Pennsylvania [Mr. CLINGER] and the gentleman from South Carolina [Mr. SPENCE].

H.R. 1670 would enable businesses to compete effectively in both commercial and Government markets, and would eliminate many of the contracting requirements unique to the Government that increase the cost of doing business with it. We have heard this from prior speakers. The simplification of unwieldy requirements and procedures will also encourage more businesses to enter the Federal marketplace which may have been intimidated by the current system. These businesses just simply cannot deal with the system as it is today. These changes will enable the Government to take advantage of leading technology firms, the technology being supplied by these firms important to the Government.

I strongly urge my colleagues to support the Federal Acquisition Reform Act in the interests of efficiency, a strengthened supplier base, increased competition, and reduced procurement costs. I urge my colleagues to vote against any amendments that are offered that will weaken this bill and make the system work more slowly and more bureaucratically.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from South Carolina [Mr. SPENCE], the cosponsor of this legislation and the very able and excellent chairman of the Committee on National Security.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, I rise in strong support of H.R. 1670, the Federal Acquisition Reform Act of 1995.

This legislation represents an important leap forward in reforming today's antiquated and inefficient Federal procurement system.

Last year, Congress enacted comprehensive acquisition reform legislation that is just now beginning to work itself through the regulatory process. The Federal Acquisition Streamlining Act was a good start in making needed incremental changes to the system.

I realize that some may wonder why we are launching yet another round of acquisition reform while the last one is still going through the implementation process. The answer is simple—we cannot afford to wait for last year's modest reforms to go into effect before fixing the fundamental problems ailing the current system.

Mr. Chairman, what is required today is fundamental reform, not incremental reform. The American taxpayer pays too much for the goods and services bought by the Federal Government. The current system results in products that are too costly, many times outdated, and of questionable quality.

This issue is of critical importance because how the Federal Government buys goods and services affects the budgets and programs under the jurisdiction of every single committee of the House. As we all contemplate the difficult fiscal reality of moving toward a balanced budget in 7 years, we must fix today's inefficient procurement system in order to maximize return on every single Federal tax dollar.

As the Federal Government's largest single buyer, nowhere do these problems apply more than in the Department of Defense. While the concurrent budget resolution adopted by this House does increase Defense spending relative to the President's budget request, even this spending level will not adequately cover the many critical military capability, readiness, and quality-of-life shortfalls facing the military in the years ahead.

I supported this budget as it struck a prudent balance between halting the 10-year slide in Defense spending and putting us on a track toward a balanced Federal budget. But I also realize that the shortfalls created by the drastic reductions in spending of the past few years will require that we aggressively find additional funds from within the Defense program.

It makes necessary process reforms that will streamline procedures, reduce the costly overhead associated with Federal procurements, and allow the Government to buy commercially more often.

Mr. Chairman, the House National Security Committee shares jurisdiction on these issues and received sequential referral of this legislation. In that capacity, we have been working with the Government Reform and Oversight Committee to iron out some last remaining differences. I am happy to report that we have reached an agreement on these differences and that I will be offering an amendment later on reflecting these changes. I want to commend Chairman CLINGER and Representative COLLINS for the cooperative spirit in which they have dealt with our committee and for the willingness to work out these last remaining differences.

Mr. Chairman, I am told that there may be some amendments from the minority or from the Small Business Committee that could have the effect of walking back many of the important provisions of H.R. 1670. These amendments, while well intentioned, would revert back to the same timid and ineffective reforms that we have engaged in for the past 10 years. What is needed is fundamental reform. H.R. 1670 is such fundamental reform.

In closing, I urge my colleagues to defeat any weakening amendments that may be offered by those seeking to protect the status quo system. While change is always unsettling to some, there is no aspect of the Federal Government that could stand more change than the Federal procurement system.

H.R. 1670 represents such change, and I urge my colleagues to support the Government Reform and National Security Committees in pursuing this important objective.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I sincerely believe we can improve Government procurement. There are many provisions in this bill that were developed in a very bipartisan manner to reduce the number of steps in the procurement process. In fact, many of these changes were recommended by Vice President GORE. We have disagreed on just one item, the requirement that we have full and open competition.

Full and open competition reduces the cost of the Government, it does not add to the burden of procurement. Full and open competition lets new business, small business, compete. Our amendment would also give necessary flexibility to Government officials to discuss with businesses whether they have a chance to win any kind of procurement opportunity, so that companies with hopeless causes can voluntarily withdraw.

This is not adding anything, this is in fact helping to streamline the whole process while keeping full and open competition. Full and open competition actually keeps bureaucrats from using prejudice and an old boy network to exclude worthy businesses. That is all we are talking about. That is all we

are going to be talking about in my amendment. It just seems to me that we have to make a case for full and open competition. If it were not for this one hang-up that we have in this legislation, we would be on our way home right now. We could have probably voted for this piece of legislation and have been out of here.

I have to repeat that nowhere has the case been made to change the competition standard. The procurement process can be streamlined, as I said just now, and I agree with many of the provisions that are here. It just seems to me that we ought to get about the business of taking care of full and open competition so we can be on our way, so small business, large business, megabusinesses can all have a fair shake at getting Federal Government contracts.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

□ 1800

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute, just to indicate that I think that the gentlewoman said that we could have been out of here if we could resolve this one niggling little disagreement.

I have to suggest that it is a little more than a minor disagreement. I think that in my view it really goes to the heart of this bill. We have a fundamental disagreement over the impact.

I believe, and I hope a majority will believe, that what we have provided here is the kind of flexibility we need to really get the reforms that are necessary. The other side does not agree with that, so we will debate that in more detail later on, but it is not a minor disagreement, I would have to say.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER], a very key and senior member of the Committee on National Security.

Mr. HUNTER. I thank the gentleman for yielding me the time.

Mr. Chairman, let me thank the distinguished chairman of the Committee on Armed Services and the chairman of the Committee on Government Operations for their great work. Let me give a dimension to this problem that has not been explored before.

This year in the Department of Defense we are going to be spending about $40 billion for procurement of weapons systems. That is for aircraft, for ships, for submarines, and for all that equipment that our Armed Forces use, so we spend about $40 billion for equipment.

Well, folks, we have about 300,000 Government shoppers buying that equipment. Those 300,000 Government shoppers, that is two U.S. Marine Corps of shoppers. I call them the 173rd Airborne shopping division, call them the Big Red One shopping division, but those shoppers are necessary because we have built a mountainous system of regulations that says if you buy a military airplane for $100 million, you will spend abut $40 million that you pay in salaries to the Pentagon for the service of buying it.

If we do not start reducing the regulations, and this bill goes a long way toward doing that, we are going to continue to maintain two U.S. Marine Corps for the service of shopping for weapon systems. That is not in the interest of the taxpayers.

I commend the gentlemen for their hard work. I just hope everybody in the House realizes the efficiencies that we can achieve if we will pass this bill.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. CHAMBLISS], another member from the Committee on National Security, which is the cocommittee with our committee in bringing this legislation to the floor.

Mr. CHAMBLISS. Mr. Chairman, the Clinger-Spence acquisition reform bill before you will finish the job begun by the Congress last year. Consider the changes proposed by the bill: Changing competition requirements so that they are reasonable in light of the need; establishing commercial-like procedures for Government procurement; reforming procurement integrity so that it no longer stifles the process; making American companies more competitive on the international market; streamlining the burdensome certification process; consolidating the many dispute resolution mechanisms into a single review board.

These are all commonsense answers to the very real problem of redtape and an overly bureaucratic procurement process. This Congress is finally applying real-world family and business practices to our budgets and our administration of Federal programs. Why not apply these standards to Federal purchasers?

When this bill was first put forward as an amendment to the Defense authorization, many business groups voiced their concern over the new approach to the process. They were concerned that this legislation would in some way limit their ability to freely and openly pursue contracts.

Since that time, Chairmen CLINGER and SPENCE have worked very hard to address these concerns. They have made very important changes that protect the rights of business while maintaining the commonsense approach that serves as the basis of the legislation.

I commend Chairmen SPENCE and CLINGER for working so hard to bring these needed changes to Government. The changes will be good for business, and ultimately they will be good for the taxpayers. Support the Clinger-Spence procurement reform bill and reject this amendment.

However well-intentioned, the amendment of my colleague from Illinois would embrace the status quo and prevent the kind of reform that will get to the heart of this unruly process.

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute, if I may, just to indicate that as we near the end of this debate, I think it has been a very full and open debate, and I think we have touched on some of the issues that will be part of the debate that will follow this as we consider the bill title by title.

It is a significant, I think, reform, a dramatic reform, if you will, of what we have had to live with and what procurement people have had to live with for so long in trying to do the people's business, what we heard in witness after witness from the procurement community. These are dedicated public servants who are really trying to do the job that we ask them to do but feel that they have been hamstrung, limited, wrapped up in redtape, and unable to really accomplish what we all want them to do, which is to get the best bargain that they can for the Federal Government.

We preserve full and open competition, and that I think needs to be stressed. We do provide that the Federal Government has a role to play in determining what they need on any given procurement, how broad do they need to cast the net to get that, and making a winnowing process at the beginning of the process rather than well down the road.

Mr. Chairman, it is a great honor for me to yield the balance of our time to the gentleman from Georgia [Mr. GINGRICH], the Speaker of the House.

The CHAIRMAN. The gentleman from Georgia is recognized for 3 minutes.

Mr. GINGRICH. Mr. Chairman, I thank my good friend from Pennsylvania for yielding me the time.

Mr. Chairman, I just wanted to say that I am very, very proud that we are bringing to the floor and giving our Members a chance to join in a very fundamental reform to fix the Federal procurement system. The Federal Acquisition Reform Act of 1995 is a step toward bringing us into the 21st century.

The fact is Federal procurement is, I think, one of the most inefficient things the Federal Government does. One recent estimate is that taxpayers today pay basically a 20-percent premium on Federal purchases.

That is, if you are to take a product and ask what would it cost you as a private citizen to go buy it, and that costs, say, $100, you would find that for the very same product it costs you $120 if your Government buys it. So you as a taxpayer are not just paying for the legitimate requirements but you are in fact paying more than you should be paying.

But there is something deeper. Because our procurement system today is so slow and so cumbersome and so filled with redtape and is so time consuming, we end up buying products that are in fact obsolete by the time we can get around to procuring them. In fact, in computers, we actually take longer to figure out how to buy the

computer than the lifecycle of current computers.

I use some examples. This is an FAA vacuum tube. If there is any single argument for this act, this is a Federal Aviation Administration vacuum tube which we are currently buying for the air traffic control system. This is an Intel Pentium chip, which is 3,100,000 of the vacuum tubes. In a period when you could be buying this, and instead you are buying this, you clearly have an opportunity for dramatic improvement.

I commend my colleagues on the Committee on Government Reform and Oversight. They have produced a bill which has the American Electronics Association, the Electronic Industry Association, the American Defense Preparedness Association, the Contract Services Association, the Professional Services Council, and the list goes on and on, group after group that knows that in the modern world, agile, lean, private corporations using the best information technologies are literally purchasing circles around a slow, cumbersome, redtape-ridden Federal Government.

The National Taxpayers Union and the Americans for Tax Reform both recognize that the Federal Acquisition Reform Act of 1995 will improve the lot of the taxpayer. They urge a ''yes'' vote.

Let me say in closing that I commend my good friend, Chairman CLINGER. I urge every Member of the House, on behalf of the taxpayers and on behalf of a better, more effective government that you can be proud of, I hope you will vote ''yes'' today on the Federal Acquistion Reform Act.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute printed in the bill shall be considered by titles as an original bill for the purpose of amendment. The first two sections and each title are considered read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Acquisition Reform Act of 1995''.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—COMPETITION

SEC. 101. IMPROVEMENT OF COMPETITION REQUIREMENTS.

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2304 of title 10, United States Code, is amended to read as follows:

''§ 2304. Contracts: competition requirements

''(a) COMPETITION.—(1) Except as provided in subsections (b), (c), and (e) and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

''(A) shall obtain full and open competition—

''(i) that provides open access, and

''(ii) that is consistent with the need to efficiently fulfill the Government's requirements,

through the use of competitive procedures in accordance with this chapter and the Federal Acquisition Regulation; and

''(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

''(2) In determining the competitive procedure appropriate under the circumstances, the head of an agency—

''(A) shall solicit sealed bids if—

''(i) time permits the solicitation, submission, and evaluation of sealed bids;

''(ii) the award will be made on the basis of price and other price-related factors;

''(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

''(iv) there is a reasonable expectation of receiving more than one sealed bid; and

''(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

''(b) EXCLUSION OF PARTICULAR SOURCE.—The head of an agency may provide for the procurement of property or services covered by this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service. The Federal Acquisition Regulation shall set forth the circumstances under which a particular source may be excluded pursuant to this subsection.

''(c) EXCLUSION OF CONCERNS OTHER THAN SMALL BUSINESS CONCERNS AND CERTAIN OTHER

ENTITIES.—The head of an agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding concerns other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 638, 644) and concerns other than small business concerns, historically Black colleges and universities, and minority institutions in furtherance of section 2323 of this title.

''(d) PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—(1) Procedures other than competitive procedures may be used for purchasing property and services only when the use of competitive procedures is not feasible or appropriate. Standards for determining when the use of competitive procedures is not feasible or appropriate shall be set forth in the Federal Acquisition Regulation. Each procurement using procedures other than competitive procedures (other than a procurement for commercial items using simplified procedures or a procurement in an amount not greater than the simplified acquisition threshold) shall be justified in writing and approved in accordance with the Federal Acquisition Regulation.

''(2) In the case of a procurement using procedures that preclude all but one source from responding (hereinafter in this subsection referred to as a 'sole source procurement'), the Federal Acquisition Regulation shall provide for justification and approval under paragraph (1) of such procurement under standards that set forth limited circumstances for such sole source procurements, including circumstances when—

''(A) the property or services needed by the agency are available from only one responsible source and no other type of property or services will satisfy the needs of the agency;

''(B) the agency's need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to award the contract for the property or services to a particular source;

''(C) it is necessary to award the contract to a particular source in order (i) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, (ii) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, or (iii) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify;

''(D) the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the award of the contract for the property or services to a particular source;

''(E) subject to section 2304f, a statute expressly authorizes or requires that the procurement be made through another agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

''(F) the disclosure of the agency's needs would compromise the national security unless the agency is permitted to award the contract for the property or services needed by the agency to a particular source; or

''(G) the head of the agency—

''(i) determines that it is necessary in the public interest to award the contract for the property or services needed by the agency to a particular source in the particular procurement concerned, and

''(ii) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

''(3) The authority of the head of an agency under paragraph (2)(G) may not be delegated.

''(e) SIMPLIFIED PROCEDURES.—(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold.

''(2) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified procedures required by paragraph (1).

''(3) In using simplified procedures, the head of an agency shall ensure that competition is obtained to the maximum extent practicable consistent with the particular Government requirement.

''(f) CERTAIN CONTRACTS.—for the purposes of the following laws, purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures:

''(1) The Walsh-Healey Act (41 U.S.C. 35–45).

''(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a–5).''.

(2) Chapter 137 of title 10, United States Code is amended by inserting before section 2305 a new section—

(A) the designation and heading for which is as follows:

''§ 2304f. Merit-based selection'';

and

(B) the text of which consists of subsection (j) of section 2304 of such title, as in effect on the day before the date of the enactment of this Act, modified—

(i) by striking out the subsection designation;

(ii) in paragraphs (2)(A), (3), and (4), by striking out ''subsection'' and inserting in lieu thereof ''section'' each place it appears;

(iii) in paragraph (2)(C), by striking out ''paragraph (1)'' and inserting in lieu thereof ''subsection (a)'';

(iv) by redesignating paragraphs (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively; and

(v) in subsection (b) (as so redesignated), by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(3) The table of sections at the beginning of such chapter is amended by inserting before the item relating section 2305 the following new item:

''2304f. Merit-based selection.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended to read as follows:

''SEC. 303. CONTRACTS: COMPETITION REQUIREMENTS.

''(a) COMPETITION.—(1) Except as provided in subsections (b), (c), and (e) and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services—

''(A) shall obtain full and open competition—

''(i) that provide open access, and

''(ii) that is consistent with the need to efficiently fulfill the Government's requirements, through the use of competitive procedures in accordance with this chapter and the Federal Acquisition Regulation; and

''(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

''(2) In determining the competitive procedure appropriate under the circumstances, an executive agency—

''(A) shall solicit sealed bids if—

''(i) time permits the solicitation, submission, and evaluation of sealed bids;

''(ii) the award will be made on the basis of price and other price-related factors;

''(iii) it is not necessary to conduct discussions with the responding source about their bids; and

''(iv) there is a reasonable expectation of receiving more than one sealed bid; and

''(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

''(b) EXCLUSION OF PARTICULAR SOURCE.—An executive agency may provide for the procurement of property or services covered by this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service. The Federal Acquisition Regulation shall set forth the circumstances under which a particular source may be excluded pursuant to this subsection.

''(c) EXCLUSION OF CONCERNS OTHER THAN SMALL BUSINESS CONCERNS AND CERTAIN OTHER ENTITIES.—An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding concerns other than small business concerns in furtherance of section 9 and 15 of the Small Business Act (15 U.S.C. 638, 644) and concerns other than small business concerns, historically Black colleges and universities, and minority institutions in furtherance of section 7102 of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note).

''(d) PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.—(1) Procedures other than competitive procedures may be used for purchasing property and services only when the use of competitive procedures is not feasible or appropriate. Standards for determining when the use of competitive procedures is not feasible or appropriate shall be set forth in the Federal Acquisition Regulation. Each procurement using procedures other than competitive procedures (other than a procurement for commercial items using simplified procedures or a procurement in an amount not greater than the simplified acquisition threshold shall be justified in writing and approved in accordance with the Federal Acquisition Regulation.

''(2) In the case of a procurement using procedures that preclude all but one source from responding (hereinafter in this subsection referred to as a 'sole source procurement'), the Federal Acquisition Regulation shall provide for justification and approval under paragraph (1) of such procurement under standards that set forth limited circumstances for such sole source procurements, including circumstances when—

''(A) the property or services needed by the executive agency are available from only one responsible source and no other type of property or services will satisfy the needs of the executive agency;

''(B) the executive agency's need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the executive agency is permitted to award the contract for the property or services to a particular source;

''(C) it is necessary to award the contract to a particular source in order (i) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, (ii) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, or (iii) to procure the services of an expert for use, in any litigation or dispute (including any

reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify;

''(D) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization, or the written directions of a foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the award of the contract for the property or services to a particular source;

''(E) subject to section 303M, a statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

''(F) the disclosure of the executive agency's needs would compromise the national security unless the agency is permitted to award the contract for the property or services needed by the agency to a particular source; or

''(G) the head of the executive agency—

''(i) determines that it is necessary in the public interest to award the contract for the property or services needed by the agency to a particular source in the particular procurement concerned, and

''(ii) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

''(3) The authority of the head of an executive agency under paragraph (2)(G) may not be delegated.

''(e) SIMPLIFIED PROCEDURES.—In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold.

''(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

''(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.

''(3) A proposed purchase or contract or for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified procedures required by paragraph (1).

''(4) In using simplified procedures, an executive agency shall ensure that competition is obtained to the maximum extent practicable consistent with the particular Government requirement.''.

''(2) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303L a new section—

(A) the designation and heading for which is as follows:

''SEC. 303M. MERIT-BASED SELECTION.'';

and

(B) the text of which consists of subsection (h) of section 303 of such Act, as in effect on the day before the date of the enactment of this Act, modified—

(i) by striking out the subsection designation;

(ii) in paragraphs (2)(A), (3), and (4), by striking out ''subsection'' and inserting in lieu thereof ''section'' each place it appears;

(iii) in paragraph (2)(C), by striking out ''paragraph (1)'' and inserting in lieu thereof ''subsection (a)'';

((iv) by redesignating paragraphs (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively; and

(v) in subsection (b) (as so redesignated), by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(3) The table of contents for the Federal Property and Administrative Services Act of 1949 (contained in section 1(b)) is amended—

(A) by striking out the item relating to section 303 and inserting in lieu thereof the following:

''Sec. 303. Contracts: competition requirements.'';

and

(B) by inserting after the item relating to section 303L the following new item:

''Sec. 303M. Merit-based selection.''.

(c) REVISIONS TO PROCUREMENT NOTICE PROVISIONS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)—

(A) in subparagraph (B) of paragraphs (1)—

(i) by striking out ''subsection (f)—'' and all that follows through the end of the subparagraph and inserting in lieu thereof ''subsection (b); and''; and

(ii) by inserting after ''property or services'' the following: ''for a price expected to exceed $10,000 but not to exceed $25,000'';

(B) by striking out paragraph (4); and

(C) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and (2) in subsection (b)—

(A) by amending subparagraph (B) of paragraph (2) to read as follows:

''(B) state where the acquisition is to be conducted pursuant to a contractor verification system (as provided pursuant to section 35) or whether the offeror, its product, or its service otherwise must meet a qualification requirement in order to be eligible for award and, if so, identify the criteria to be used in determining such eligibility;'; and

(B) by amending paragraph (4) to read as follows:

''(4) a statement that all responsible sources may submit for consideration a bid, proposal, or quotation;''.

(d) EXECUTIVE AGENCY RESPONSIBILITIES.—(1) Section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) is amended—

(A) by striking out ''achieve'' in the matter preceding paragraph (1) and inserting in lieu thereof ''promote''; and

(B) by amending paragraph (1) to read as follows:

''(1) to implement competition that provides open access for responsible sources in the procurement of property or services by the executive agency by establishing policies, procedures, and practices that are consistent with the need to efficiently fulfill the Government's requirements;''.

(2) Section 20 of such Act (41 U.S.C. 418) is amended in subsection (a)(2)(A) by striking out ''serving in a position authorized for such executive agency on the date of enactment of the Competition in Contracting Act of 1984''.

SEC. 102. DEFINITIONS RELATING TO COMPETITION REQUIREMENTS.

(a) DEFINITION.—Paragraphs (5) and (6) of section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) are amended to read as follows:

'(5) The term 'competitive procedures' means procedures under which an agency enters into a contract pursuant to full and open competition that provides open access and is consistent with the need to efficiently fulfill the Government's requirements.

''(6) The term 'open access', when used with respect to a procurement, means that all responsible sources are permitted to submit sealed bids or competitive proposals on the procurement.''.

(b) CONFORMING AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 20 of the Office of Federal Procurement Policy Act is amended—

(A) in subsection (b)(1), subsection (b)(3)(A), and subsection (c), by inserting after ''full and open competition'' the following: ''that provides open access and is consistent with the need to efficiently fulfill the Government's requirements'' each place it appears; and

(B) in subsection (b)(4)(C), by striking out ''to full and open competition that remain'' and inserting in lieu thereof ''that remain to achieving full and open competition that provides open access and is consistent with the need to efficiently fulfill the Government's requirements''.

(2) TITLE 10.—Title 10, United States code, is amended—

(A) in section 2302(2), by striking out the first sentence and inserting in lieu thereof the following: ''The term 'competitive procedures' means procedures under which an agency enters into a contract pursuant to full and open competition that provides open access and is consistent with the need to efficiently fulfill the Government's requirements.'';

(B) in section 2302(3)(D), by striking out ''full and open competition'' and inserting in lieu thereof ''open access'';

(C) in section 2323(e)(3), by striking out ''less than full and open'' and inserting in lieu thereof ''procedures other than''; and

(D) in section 2323(i)(3)(A), by striking out ''full and open''.

(3) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(A) in section 309(b), by striking out the first sentence and inserting in lieu thereof the following: ''The term 'competitive procedures' means procedures under which an executive agency enters into a contract pursuant to full and open competition that provides open access and is consistent with the need to efficiently fulfill the Government's requirements.'';

(B) in section 309(c)(4), by striking out ''full and open competition'' and inserting in lieu thereof ''open access''; and

(C) in section 304B(a)(2)(B), by striking out ''encouraging full and open competition or''.

(4) OTHER LAWS.—Section 7102 of the Federal Acquisition Streamlining Act of 1994 (108 Stat. 3367; 15 U.S.C. 644 note) is amended in subsection (a)(1)(A) by striking out ''less than full and open competition'' and inserting in lieu thereof ''procedures other than competitive procedures''.

SEC. 103. CONTRACT SOLICITATION AMENDMENTS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2305 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following: ''(A) In preparing for the procurement of property or services, the head of an agency shall use advance procurement planning and market research.'';

(B) by striking out subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph by striking out ''For the purposes of subparagraphs (A) and (B), the'' and inserting in lieu thereof ''Each solicitation under this chapter shall include specifications that include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law. The'';

(2) in subsection (a)(2), by inserting after ''(other than for'' the following: ''a procurement for commercial items using simplified procedures or''; and

(3) in subsection (b)(4)(A)(i), by striking out ''all'' and inserting in lieu thereof ''the''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(A) in subsection (a)—

(i) by striking out paragraph (1) and inserting in lieu thereof the following: ''(1) In preparing

for the procurement of property or services, an executive agency shall use advance procurement planning and market research.'';

(ii) by striking out paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2) and in that paragraph by striking out ''For the purposes of paragraphs (1) and (2), the'' and inserting in lieu thereof ''Each solicitation under this title shall include specifications that include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the executive agency or as authorized by law. The''; and

(B) in subsection (b), by inserting after ''(other than for'' the following: ''a procurement for commercial items using simplified procedures or''.

(2) Section 303B(d)(1)(A) of such Act (41 U.S.C. 253b) is amended by striking out ''all'' and inserting in lieu thereof ''the''.

SEC. 104. PREAWARD DEBRIEFINGS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended—

(1) by striking out subparagraph (F) of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following new paragraphs:

''(6)(A) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within three days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable and may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

''(B) The contracting officer is required to debrief an excluded offeror in accordance with paragraph (5) of this section only if that offeror requested and was refused a preaward debriefing under subparagraph (A) of this paragraph.

''(C) The debriefing conducted under this subsection shall include—

''(i) the executive agency's evaluation of the significant elements in the offeror's offer;

''(ii) a summary of the rationale for the offeror's exclusion; and

''(iii) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

''(D) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offeror's proposals.

''(7) The contracting officer shall include a summary of any debriefing conducted under paragraph (5) or (6) in the contract file.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by redesignating subsections (f), (g), (h), and (i) as subsections (h), (i), (j), and (k), respectively; and

(3) by inserting after subsection (e) the following new subsections:

''(f)(1) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within 3 days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable and may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

''(2) The contracting officer is required to debrief an excluded offeror in accordance with subsection (e) of this section only if that offeror requested and was refused a preaward debriefing under paragraph (1) of this subsection.

''(3) The debriefing conducted under this subsection shall include—

''(A) the executive agency's evaluation of the significant elements in the offeror's offer;

''(B) a summary of the rationale for the offeror's exclusion; and

''(C) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

''(4) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

''(g) The contracting officer shall include a summary of any debriefing conducted under subsection (e) or (f) in the contract file.''.

SEC. 105. CONTRACT TYPES.

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2306 of title 10, United States Code, is amended—

(A) by inserting before the period at the end of subsection (a) the following: '', based on market conditions, established commercial practice (if any) for the product or service being acquired, and sound business judgment'';

(B) by striking out subsections (b), (d), (e), (f), and (h); and

(C) by redesignating subsection (g) as subsection (b).

(2) The heading of such section is amended to read as follows:

''§ 2306. Contract types''.

(3) The item relating to section 2306 in the table of sections at the beginning of chapter 137 of such title is amended to read as follows:

''2306. Contract types.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended—

(A) by inserting before the period at the end of the first sentence of subsection (a) the following: '', based on market conditions, established commercial practice (if any) for the product or service being acquired, and sound business judgment'';

(B) by striking out ''Every contract awarded'' in the second sentence of subsection (a) and all that follows through the end of the subsection; and

(C) in subsection (b), by striking out ''used,'' in the first sentence and all that follows through the end of the subsection and inserting in lieu thereof ''used.''.

(2) The heading of such section is amended to read as follows:

''SEC. 304. CONTRACT TYPES.''.

(3) The item relating to section 304 in the table of contents for such Act (contained in section 1(b) is amended to read as follows:

''Sec. 304. Contract types.''.

(c) CONFORMING REPEALS.—(1) Sections 4540, 7212, and 9540 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4540.

(3) The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7212.

(4) The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9540.

(d) CIVIL WORKS AUTHORITY.—(1) Part IV of subtitle A of title 10, United States Code, is amended—

(A) by transferring section 2855 to the end of chapter 137; and

(B) by striking out the section heading and subsection (a) of such section and inserting in lieu thereof the following:

''§ 2332. Contracts for architectural and engineering services

''(a) The Secretary of Defense and the Secretaries of the military departments may enter into contracts for architectural and engineering services in connection with a military construction or family housing project or for other Department of Defense or military department purposes. Such contracts shall be awarded in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).''.

(2) The table of sections at the beginning of chapter 137 of such title is amended by adding at the end the following new item:

''2332. Contracts for architectural and engineering services.''.

(3) The table of sections at the beginning of chapter 169 of such title is amended by striking out the item relating to section 2855.

SEC. 106. CONTRACTOR PERFORMANCE.

(a) REQUIREMENT FOR SYSTEM.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''SEC. 35. CONTRACTOR PERFORMANCE.

''(a) VERIFICATION SYSTEM.—

''(1) REQUIREMENT.—The Federal Acquisition Regulation shall provide for a contractor verification system in accordance with this section.

''(2) PROCEDURES.—The Federal Acquisition Regulation shall provide procedures for the head of an executive agency to follow in order to verify a contractor as eligible to compete for contracts to furnish property or services that are procured by the executive agency on a recurring basis.

''(3) NOTIFICATION.—The procedures shall include a requirement that the head of an executive agency provide for the publication of appropriate notification about the verification system in the Commerce Business Daily.

''(b) EVALUATION.—(1) Under the procedures referred to in subsection (a)(2), the head of an executive agency in granting a verification to a contractor shall use the following factors as the basis of the evaluation:

''(A) The efficiency and effectiveness of its business practices.

''(B) The level of quality of its product or service.

''(C) Past performance of the contractor with regard to the particular property or service.

''(2)(A) The evaluation of past performance may include performance under—

''(i) a contract with an executive agency of the Federal Government;

''(ii) a contract with an agency of a State or local government; or

''(iii) a contract with an entity in the private sector.

''(B) The procedures shall include a requirement that, in the case of a contractor with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the contractor may not be evaluated favorably or unfavorably on the factor of past performance.

''(c) OPPORTUNITY FOR ALL INTERESTED SOURCES.—The Federal Acquisition Regulation shall provide procedures for ensuring that all interested sources, including small businesses, have a fair opportunity to be considered for verification under the verification system.

''(d) PROCUREMENT FROM VERIFIED CONTRACTORS.—The Federal Acquisition Regulation

shall provide procedures under which the head of an executive agency may enter into a contract for the procurement of property or services referred to in subsection (a)(2) on the basis of a competition in accordance with section 2304 of title 10, United States Code, or section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) for contractors verified with respect to such property or services pursuant to the contractor verification system.

''(e) TERMINATION OF VERIFICATION.—The Federal Acquisition Regulation shall provide procedures under which the head of an executive agency—

''(1) may provide for the termination of a verification granted a contractor under this section upon the expiration of a period specified by the head of an executive agency;

''(2) may revoke a verification granted a contractor under this section upon a determination that the quality of performance of the contractor does not meet standards applied by the head of the executive agency as of the time of the revocation decision; and

''(3) may provide that a contractor whose verification is terminated or revoked will have a fair opportunity to be considered for reentry into the verification system.

''(f) SPECIAL APPLICABILITY RULE.—Notwithstanding section 34, the verification system shall apply to the procurement of commercial items.''.

(b) REPEALS.—Section 2319 of title 10, United States Code, is repealed. Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c) is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by adding at the end the following new item:

''Sec. 35. Contractor performance.''.

(2) The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2319.

(3) The table of contents for the Federal Property and Administrative Services Act of 1949 (contained in section 1(b)) is amended by striking out the item relating to section 303C.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT NO. 1 OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mrs. COLLINS of Illinois. Strike out sections 101, 102, 103, and 106 and insert in lieu of section 101 the following:

SEC. 101. COMPETITION PROVISIONS.

(a) CONFERENCE BEFORE SUBMISSION OF BIDS OR PROPOSALS.—(1) Section 2305(a) of title 10, United States Code, is amended by adding at the end the following paragraph:

''(6) To the extent practicable, for each procurement of property or services by an agency, the head of the agency shall provide for a conference on the procurement to be held for anyone interested in submitting a bid or proposal in response to the solicitation for the procurement. The purpose of the conference shall be to inform potential bidders and offerors of the needs of the agency and the qualifications considered necessary by the agency to compete successfully in the procurement.''.

(2) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended by adding at the end the following new subsection:

''(f) To the extent practicable, for each procurement of property or services by an agency, an executive agency shall provide for a conference on the procurement to be held for anyone interested in submitting a bid or proposal in response to the solicitation for the procurement. The purpose of the conference shall be to inform potential bidders and offerors of the needs of the executive agency and the qualifications considered necessary by the executive agency to compete successfully in the procurement.''.

''(b) DESCRIPTION OF SOURCE SELECTION PLAN IN SOLICITATION.—(1) Section 2305(a) of title 10, United States Code, is further amended in paragraph (2)—

(A) by striking out ''and'' after the semicolon at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) a description, in as much detail as is practicable, of the source selection plan of the agency, or a notice that such plan is available upon request.''.

(2) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is further amended in subsection (b)—

(A) by striking out ''and'' after the semicolon at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new subparagraph:

''(3) a description, in as much detail as is practicable, of the source selection plan of the executive agency, or a notice that such plan is available upon request.''.

(c) DISCUSSIONS NOT NECESSARY WITH EVERY OFFEROR.—(1) Section 2305(b)(4)(A)(i) of title 10, United States Code, is amended by inserting before the semicolon the following: ''and provided that discussions need not be conducted with an offeror merely to permit that offeror to submit a technically acceptable revised proposal''.

(2) Section 303B(d)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by inserting before the semicolon the following: ''and provided that discussions need not be conducted with an offeror merely to permit that offeror to submit a technically acceptable revised proposal''.

(d) PRELIMINARY ASSESSMENTS OF COMPETITIVE PROPOSALS.—(1) Section 2305(b)(2) of title 10, United States Code, is amended by adding at the end the following: ''With respect to competitive proposals, the head of the agency may make a preliminary assessment of a proposal received, rather than a complete evaluation of the proposal, and may eliminate the proposal from further consideration if the head of the agency determines the proposal has no chance for contract award.''.

(2) Section 202B(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(b)) is amended by adding at the end the following: ''With respect to competitive proposals, the head of the agency may make a preliminary assessment of a proposal received, rather than a complete evaluation of the proposal, and may eliminate the proposal from further consideration if the head of the agency determines the proposal has no chance for contract award.''.

(e) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall be revised to reflect the amendments made by subsections (a), (b), (c), and (d).

Mrs. COLLINS of Illinois. Mr. Chairman, just 3 months ago, when H.R. 1670 was offered as an amendment to the Defense Authorization Act, I offered an amendment to Chairman CLINGER's amendment to protect small business by providing full and open competition procurement. My amendment was passed with bipartisan support, by a vote of 213–207. The procurement amendment was then passed by an overwhelming bipartisan vote of 402 to 1.

My amendment today is the same one that passed the House on June 14, as part of the National Defense Authorization Act. It does three things: First, it strikes from H.R. 1670 its redefinition of the competition standard for Federal contracts. Second, it strikes an unnecessary system of Federal agency verification, whereby agency bureaucrats determine which firms are allowed to bid for Federal contracts. Third, it moves us closer to commercial buying practices, by empowering agency officials to have more open communication with the private sector. My position is supported by the Chair of the Committee on Small Business, Jan Meyers; the Small Business Administration; the Small Business Working Group on Procurement Reform; and the U.S. Chamber of Commerce.

In a July 27, 1995, letter to Chairman CLINGER, the U.S. Chamber of Commerce and Small Business Working Group on Procurement wrote:

We believe that it is essential that H.R. 1670 be modified to maintain the current standard of ''full and open competition'', established by the landmark Competition in Contracting Act of 1984 (CICA) . . . The competitive standard established by CICA has proven itself for over a decade, resulting in a steady decrease in sole source contract awards. It assures a fair and open procurement process, which is essential to small business.

Clearly, for these major representatives of the small business community, the case has not been made for changing the full and open competition standard. Small business continues to believe that H.R. 1670 will significantly limit their ability to fairly compete for Government contracts. In my opinion, this is a fatal flaw in H.R. 1670. My amendment will correct this flaw.

The cornerstone of our free enterprise system is full and open competition. The competitive market ensures fair prices to the Government. If a vendor's product costs too much, it will not survive. At the same time full and open competition provides the opportunity for all vendors, particularly small businesses, to participate in the Federal marketplace, to be judged on merit. This creates incentives for the development of new and innovative products. These market forces are essential if we are to position our country for economic leadership into the next century.

□ 1815

Mr. Chairman, title I of H.R. 1670 amounts to little more than a bait and switch maneuver in which the term ''full and open'' is included in the text but its meaning is substantively

changed. The maximum practicable standard which we rejected on the House Floor on June 14 has been replaced by ''open access'', the definition of which is identical to the definition of ''full and open'' in CICA.

However, the bill provides broad new exceptions to full and open competition when agency officials determine it is not feasible or appropriate.

Prior to passage of the Competition in Contracting Act of 1984, Federal agencies tended to award sole source contracts because agency bureaucrats complained that full and open competition would be too complicated and time consuming.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

(By unanimous consent, Mrs. COLLINS of Illinois was allowed to proceed for 3 additional minutes.)

Mrs. COLLINS of Illinois. Mr. Chairman, They said it was less risky and more manageable to do business with a few selected vendors, instead of encouraging new and innovative qualified companies to enter the Federal marketplace. However, this lack of competition resulted in widespread waste and abuse in every Federal agency.

The Competition in Contracting Act's establishment of the full and open competition standard has saved the Federal Government billions of dollars. Now, the same old arguments which were used to limit competition before we passed that legislation have resurfaced with H.R. 1670.

I can understand why agency bureaucrats would want additional powers to impose limits on competition. It is certainly much easier and less time consuming to do business with only a few selected well known big companies. Agency officials get to know the people in these companies. Yes, the old boy network does have its advantages; but do we really want our country to go backwards as we move into the more enlightened information age?

Over the past 5 years much of the major innovative and technological advances that our country has made have come from small businesses. Just look at the remarkable rise of companies like Microsoft and Apple computers. Just a few years ago they were new, small companies; today they successfully compete with computer giants like IBM.

Over the next 10 years, 85 percent of all new jobs in the United States will come from small businesses. Such businesses are in every district of every Member in this House. By adopting this new competition standard we will lock in procurement policies that lock small businesses out of the Federal marketplace and significantly undermine our Nation's competitiveness.

Joshua Smith, who chaired President Bush's Commission on Minority Business, testified several years ago before the Government Operations Committee that emphasizing subjectivity in awarding contracts creates a breeding ground for prejudice, because contracting officers, if given the choice, will usually go with a well-established, large firm instead of a small business offering a lower price.

Much of the stated justification for H.R. 1670's change in the competition standard is to give agency bureaucrats more power to exclude noncompetitive companies; but under the current full and open competition standard most of that authority already exists.

Now, I agree with Chairman CLINGER that there does appear to be a problem of many companies having technical weaknesses which are evident to the agencies early in the process. However, when agencies fail to so advise these companies of their little chance of winning, a lot of their money is wasted in a futile effort to win a contract.

There also seems to be a problem with the lack of dialog between agencies and businesses prior to bidding. In the private sector, buyers and sellers talk to each other all the time. In the Federal Government we limit that discussion.

I agree with these two industry concerns. Therefore, my amendment provides for prebid or preproposal conferences which should disclose as much information as possible regarding the qualifications necessary to successfully win a contract.

In order to give companies a better understanding of how agencies will evaluate bids, my amendment would require that solicitation describe the agency source selection plan in as much detail practicable. If companies are better informed about how bids will be evaluated, they will be better able to give the Federal Government exactly what it needs and at the best price.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] had expired.

(By unanimous consent, Mrs. COLLINS of Illinois was allowed to proceed for 3 additional minutes.)

Mrs. COLLINS of Illinois. Mr. Chairman, finally, my amendment empowers Federal agencies by giving them the authority to eliminate from cost and technical discussions and evaluations any proposal that clearly has no chance for award. In this way companies should be informed early in the process that they have no chance to win a bid. This will cut down on time and significantly reduce costs.

Mr. Chairman, full and open competition is the key to efficiency and fairness in Federal procurement. It creates a level playing field upon which all qualified vendors, particularly small businesses, have a fair chance to compete for a share of the hundreds of billions of dollars spent by the Federal Government in procurement each year. In return, the Government receives the maximum benefit from the innovations and expertise offered by companies large and small. We should maintain the current standard and the current interpretation of full and open, and make the targeted changes contained in my amendment.

My amendment had the strong support of the small business community, as well as the U.S. Chamber of Commerce as well as the following groups: Small Business Legislative Council [SBLC]; National Small Business United [NSBU]; 100+member National Association of Women Business Owners [NAWBO]; Latin American Management Association [LAMA]; Minority Business Enterprise Legal Defense and Education Fund [MBELDEF]; National Association of Minority Business [NAMB]; National Association of Minority Contractors [NAMC]; Women Construction Owners and Executives; and American Gear Manufacturers Association. The bill before us today unfortunately does not include my amendment, and instead would grant a broad new authority to procurement officials to limit competition. Therefore, I once again offer an amendment to restore the full and open standard which the House endorsed in June.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in reluctant but very strenuous opposition to the amendment of the gentlewoman from Illinois [Mrs. COLLINS]. I know of her concern and I know that she has really thought long and deeply about this matter, but I have to say that I think the gentlewoman is wrong in the interpretation that she gives to the language that we have included in this bill.

I also point out that since we considered this amendment back in June, significant, substantive changes have been made in the legislation, primarily to move in the direction that the gentlewoman has importuned us to do. I think we recognized a number of the concerns that she raised and we did move in that direction.

So, Mr. Chairman, I would suggest that the amendment that we have before us tonight really is in response to an earlier, now outmoded iteration of the legislation that we have before us tonight. The legislation we have before us tonight, I think, has addressed many of the concerns that were raised.

In that respect, I would point out that I know the gentlewoman would not want to mislead anybody in terms of the support, but I think that it was alluded to that the NFIB had supported this amendment. They did indeed support this amendment when it was offered in June. I think they recognized that we have moved significantly toward the objectives that we all seek, and we just received a call, I would tell the gentlewoman and the Members, in our cloakroom asking me to make clear that they take no position on the amendment that is being offered tonight.

Mr. Chairman, I think that reflects a movement and a recognition that the bill that we are offering tonight really

has gone, we think, the extra mile in trying to address those concerns.

Mr. Chairman, I must oppose the amendment. I think what we are attempting to do here is to remove the restraints that have been placed upon our procurement officers to do the job that we want them to do, not add new restraints, new requirements, new restrictions.

I stress at the outset, this bill retains the language of full and open competition. It is our intent to encourage everybody that wants to do business, to come in and do business with the Federal Government.

It does say that that cannot be an open-ended process where they are going to be in the process to the end of time or until the end of the process. It does indicate there has to be some flexibility, some discretion lodged in the very competent and able people who we have manning that job. I would say if that proves not to be true, I think we could revisit that.

Mr. Chairman, this amendment would provide that a solicitation include an agency's source selection plan. According to FAR, the Federal Acquisition Regulation, source selection plans are to include such information as a description of the organization of the agency's source selection structure, a summary of the agency's acquisition strategy, the proposed acquisition factors and a description of the evaluation process.

Since agencies are required by current law to set forth in a solicitation a clear statement of the Government's requirements, along with evaluation factors and subfactors as well as their relative weights, it is not clear to me, at least, that this additional information, to the extent that it could be released under the procurement integrity laws contained in the plans, would be of any value to the offerors. What is clear is that the already bloated procurement code would still have another requirement.

Mr. Chairman, we want to compress and eliminate those that are no longer necessary or redundant, not add to the burden that we place on these people. H.R. 1670 provides for a standard of competition, focused on the competition received in response to the Government's requirements.

What we do not recognize now is that there are procurements that are in the millions of dollars, and there are procurements that are in the hundreds of dollars. There is enormous variety and disparity between the types of procurements we do, and yet we put them in a straitjacket, requiring them to do everything the same.

Mr. Chairman, what we are saying is that there ought to be some ability for the procurement people to look at what the scope of that procurement is, to determine what is going to give good competition to achieve what we all want, and that is very simply what we are after.

What we have done here, I think, in our amendment would permit acquisition professionals to make rational judgments in accordance with the evaluation factors set forth in the solicitation throughout the entire selection process to ensure that only firms with a realistic chance of award, which is not the case now, I mean, they never get the word perhaps that they are not eligible until way down the process after they spent a lot of money and time, and then are told, ''Hey, you were never in the ball game to begin with.'' We allow the procurement officers to make those determinations early.

The amendment would provide that an agency head may reject a proposal on the basis of a preliminary assessment of its merits, rather than a complete evaluation, if the agency has concluded that it has no chance for award.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 2 additional minutes.)

Mr. CLINGER. Mr. Chairman, many have indicated they would like to be informed as soon as possible in the evaluation process if they had no chance for award in order to save time and expense. We have not heard that firms wish to have their initial proposals, which is what this amendment would do, have their initial proposals rejected based on less than a complete evaluation.

So, this amendment really, I think, takes away that full and complete evaluation at the outset. The concern has been that offerors are encouraged to incur the expense of submitting revised proposals without the real chance of getting the award. This is addressed in H.R. 1670 by providing for increased information in the public notice so that offerors are provided, as early as possible in the process, detailed information concerning the evaluation criteria to appear in the solicitation and by granting acquisition professionals increased discretion in accordance with the announced evaluation criteria throughout the selection process.

Mr. Chairman, what this basically says is that we do treat all of the applicants fairly. We do allow everybody to come in. This is not an exclusionary process. We treat them very fairly, but we do tell them up front what this is about. It also gives the Federal Government the opportunity to have some flexibility, some discretion about the way they do it.

□ 1830

So this is all backed up. Our bill is all backed by simplified, easily accessed, robust bid process to guard against abuse by the discretion of the contracting officers.

We are concerned about what contracting officers are going to do; then we have a provision there that allows that to be reviewed on a regular basis.

Mr. Chairman, this is really an obsolete amendment. As I say, it addresses problems that were inherent, perhaps, in the earlier bill, we did not think so, that were inherent. We have changed many of those to achieve the kind of reforms we all seek.

I would urge in the strongest possible way, reluctant as it may be, a ''no'' vote on this amendment.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have three basic principles at issue before us. About 10 years ago, in the midst of all kinds of procurement excesses, Congress amended procurement law and established in the Competition and Contracting Act a vigorous commitment to the principle of free, full, and open competition. Basically, the philosophy of that was that if we had full and open competition, we could say to the public, ''This is the public's money you are spending. You are getting your value's worth because it is a result, what we are doing, the contracts we are awarding are a result of full, open, and vigorous competition.''

So I think that we can still say 10 years later any deviation from full and open competition ought to be staunchly defended. I think we ought to be wary right now of deviating from full and open competition for a particular reason. We are downsizing acquisition in the defense arena, drastically cutting the amount that we appropriate every year for the so-called investment accounts, research and development and procurement, by huge percentages.

There is a tendency there for the haves, for those who are now defense contractors, to want to exclude the others because the pie is shrinking, and there are just so many pieces you can cut out of a shrinking pie. So there is already a tendency, because of downsizing of funding of procurement for the haves, to try to exclude the have-nots, and we want to be very careful so we do not dovetail procurement law at this very point in the history of procurement funding and make it easier for the haves to rule out the have-nots. I fear we still have too much tendency toward that in this revision of the bill.

Do not take it from me. Read what the Chamber of Commerce said in a letter they wrote at the end of July, looking back at this bill. They said,

> We do not believe that any case has been made for modifying the standards and practices of full and open competition. We are unaware of any testimony or study that such a change is needed. On the contrary, it was specifically considered and rejected by the advisory panel on codifying and streamlining acquisition laws whose 1,800-page report was the foundation for P.L. 103–355, the Federal Acquisition Streamlining Act of 1994.

So that is the first principle here.

Let us be extremely careful about the deviations we make from full and open competition.

Second, to the extent we do and to the extent we allow and authorize those who manage this system in the

executive branch to manage and operate the competitive system and to determine who can bid and who cannot bid, who wins the bid, who is excluded and who is included, then we should at least lay down our own principles to guide them.

The second point that the Chamber made, and speaking for small businesses in particular, is, and I am reading from their letter, ''We are perplexed by a theme reflected in so many of the bills' provisions eliminating clear statutory standards and substituting virtually unfettered discretion in the career regulation writers to shape the procurement system as they see fit.'' We are virtually letting them make sandlot rules, to make up the rules as they go along and giving them next to no criteria for doing so.

Read the bill itself. Pick up a copy of it. I am reading from page 13, 2304(d), ''Standards for determining when the use of competitive procedures is not feasible or appropriate shall be set forth in the Federal acquisition regulations.'' That is basically the bare language of the statute. That is the prescription we are giving to the regulators who write the rules and regulations, the black-letter law that will determine who gets included and who gets excluded.

The Speaker just made a very compelling speech. I would like to share another anecdote about procurement history that goes back some years. When Ike had retired and gone to Gettysburg, he was interviewed once. Somebody asked him ''General Eisenhower, President Eisenhower, who were the heroes of the Second World War who were unsung, the people who helped win it, the people who played a pivotal role who did not get adequate credit?'' The first person he mentioned was Andrew Jackson Higgins, A.J. Higgins, a small boat manufacturer who made bayou boats in New Orleans, LA, who came on during World War II to make PT boats and the famous Higgins boats that made the amphibious landings possible. That is the very kind of small business we want to make provision for.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. SPRATT] has expired.

(By unanimous consent, Mr. SPRATT was allowed to proceed for 30 additional seconds.)

Mr. SPRATT. That is what we are about here. We want to make sure this system is still open to A.J. Higgins, that will ensure that we have the kind of innovation that keeps us abreast of technology and that will assure that we do not fall victim to having a cartel, a club of pre-qualified bidders who are the only ones eligible to participate in this shrinking procurement pie.

I support the amendment that the gentlewoman, our ranking Member, has offered. I think it improves upon title I of it and corrects some of the deviations that the bill otherwise tends towards veering away from the standard of full and open competition.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to confuse this group. I had intended to offer my own amendment tonight, but because my amendment was so close in purpose to what the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS] attempts to do, I have decided instead to support her amendment.

I have been working all week with the Chamber of Commerce to try to represent their interests and the National Association for the Self-employed, the Computer and Communications Industry Association, the Associated Builders and Contractors, the Small Business Legislative Council, National Small Business United, the National Association of Women Business Owners, the Latin American Management Association, the Minority Business Enterprise Legal Defense and Education Fund; many others are deeply concerned about doing away with full and open competition.

We have heard it stated today that there is a 20 percent premium associated with full and open competition, and this study was cited. But this study does not relate those costs to full and open competition. The costs identified were not associated with competition. They were associated to Government regulation relating to quality assurance, accounting and audit requirements, management of technical data, engineering, to name a few. Those are the costs that drive Government procurement. Full and open competition, from all of the testimony that we have heard in our committee, will save money in procurement.

I rise in strong support of the Meyers-Collins amendment, and I think that small business supports procurement reform, but more important, small business supports competition.

H.R. 1670 is supposed to simplify the procurement by weeding out bids from firms that have no chance at winning a contract. Fair enough. But how? In title I, H.R. 1670 eliminates full and open competition in favor of competition whenever it is feasible or appropriate or efficient. Who decides feasibility? An agency functionary. Who decides what is efficient? The same bureaucrat, the same people who gave us $600 hammers.

Mr. Chairman, abandoning full and open competition is irresponsible. I have letters from the inspectors general from the Department of Defense and the Department of Veterans' Affairs urging Congress not to go back, to turn its back on full and open competition. They say that a change is unnecessary and will be confusing as to the level of standard for competition.

H.R. 1670 also proposes to streamline the pre-qualification process. But is there any language laying out the process? No. Once again, it is all left to the procurement bureaucracy to devise.

Read the bill. There are no procedures, no standards, nothing.

Mr. Chairman, this amendment will allow the same weeding out of capable bidders, but inside of a statutory framework. It brings us back to current law. This amendment will allow agencies to eliminate unsuitable proposals early in the competition through preliminary evaluations. The amendment will meet the goals of H.R. 1670 in a way that is fair to everyone, particularly small business.

Agencies will have an opportunity to establish their needs for performance, and firms wishing to do business with the Government will have their opportunity.

I urge my colleagues not to be misled with the cries of easing the burden on the contracting system. Businesses do not regularly bid on projects they have no hope of winning. Bid proposals cost time and money. Businesses are not in the habit of wasting their time and money on projects that have no chance for success.

I ask my colleagues, are we in favor of letting the bureaucrats run off and just do their own thing? That is not what I have heard in this House over the last 9 months.

H.R. 1670, in its current form, says let us give full authority to the bureaucracy; we will just trust them to do the right thing. Mr. Chairman, I just cannot do that. I know what happens to small businesses when agencies have too much power. Rights are trampled. Ridiculous fines are levied. Jungles of arcane regulations appear.

Many of my colleagues in the freshman class know this, too. It is a part of why they are here. That is not what I fought for when we passed the Regulatory Flexibility Act amendments this year, and this is not what the Contract With America was all about, and that is why I support this amendment.

This amendment will ensure small business is not run over by the regulatory train of procurement streamlining. Let us streamline procurement, yes, but let us not hand over total discretionary authority to the bureaucracy.

The CHAIRMAN. The time of the gentlewoman from Kansas [Mrs. MEYERS] has expired.

(By unanimous consent, Mrs. MEYERS of Kansas was allowed to proceed for 30 additional seconds.)

Mrs. MEYERS of Kansas. Mr. Chairman, I would like to reiterate that this amendment is the same amendment that was attempted as a place holder in the DOD appropriation, or the authorization, I believe. If you voted for the Collins amendment then, vote for the Collins-Meyers amendment now. It is the right thing to do for small business.

Mrs. MALONEY. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Meyers-Collins amendment. The Meyers-Collins amendment responds to the concerns of the small-business community and saves taxpayers' dollars by preserving the current standard and practice of full and open competition in Federal contracting.

The Meyers-Collins amendment responds to concerns of the small-business community and saves taxpayers' dollars by rejecting the bill's grant of sweeping authority for contracting officers to limit competition, such as when they believe that competition is not appropriate or feasible.

Where are they going to make this decision? Behind locked doors? Who is going to oversee their decision process? The Meyers-Collins amendment helps small businesses and saves taxpayers' dollars by maintaining statutory standards that help protect businesses from arbitrary treatment by contracting bureaucratic officers. The Meyers-Collins amendment saves taxpayers' dollars and helps small businesses by rejecting the bill's issuance of multiple blank checks to career regulation writers to shape the Federal contracting process to their convenience.

Mr. Chairman, full and open competition is the heart of the free market system. In the Federal procurement process, it guarantees that the Government gets the best value for the goods and services it purchases. The full and open competition standard has been in law for over a decade. It was enacted as part of the Competition and Contracting Act of 1984, a bill that responded to the fraud, waste and abuse characterizing Federal procurement at that time.

We all remember the DOD spare parts horror stories and the investigation of influence peddling, the Ill Winds scandal.

H.R. 1670 weakens full and open competition and could return us to those days of scandals. The simple fact is this: The case for changing the full and open competition standard has not been made in any credible or coherent fashion. The issue was not even raised at the February hearing of the committee on Government Reform and Oversight. The DOD inspector general and the IG of Veterans' Affairs agree completely with this point, and I quote from the DOD inspector general's testimony:

> It is not clear what statutory shortcomings the proposed changes are intended to fix. We have not seen any analysis or demonstration of a problem that supports moving away from full and open competition.

This is the IG saying,

Don't, do not do it.

□ 1845

The so-called section 800 panel, which provided the analytical basis for last year's FASA bill, considered and explicitly rejected moving away from full and open competition. They said do not do it, it will cause problems, it will waste taxpayers' dollars.

Mr. Chairman, competition in Federal contracting dates back to the revolutionary war. Competition in contracting has been around that long for one simple reason: It is fair, it is honest, and it works well. Full and open competition saves 25 percent, according to GAO in our contracting pursuits in their recent report. Maybe even more importantly competition maintains Federal procurement integrity and guarantees fair play by guaranteeing that contracts are awarded on merit; that they are awarded on merit, not favoritism and backroom decisions.

It is easy, very easy, to understand why government bureaucrats would support a retreat from full and open competition. Deciding who can compete on any given contract is a very powerful position. Deciding who can compete on over $200 billion in taxpayers' funds in Federal contracts is a very powerful person.

Doing business with a few well-known businesses is easier than considering qualified bidders. That is why the small business community is so opposed to this bill. Small businesses make up the heart of our economy, generating 85 percent of all new jobs and providing extraordinary technological innovations. Barring small businesses from the Federal acquisition system is unfair and it makes absolutely no economic sense.

The CHAIRMAN. The time of the gentlewoman from New York [Mrs. MALONEY] has expired.

(By unanimous consent, Mrs. MALONEY was allowed to proceed for 30 additional seconds.)

Mrs. MALONEY. Mr. Chairman, I would just like to conclude by saying the other side of the aisle has spent a great deal of time in this Congress debating the necessity of having risk assessment placed on our bureaucrats, of overseeing them and limiting what they are doing in health and safety, on food inspection, on the environment. We have to have risk assessment, we have to have standards, yet in this bill they hand the bureaucrats a completely blank slate to determine what the standards are. There is no legislative authority. There are no clear guidelines. I tell Members it is a disaster, and we will be back here changing it after dollars are wasted in fraud, waste and abuse.

Full and open guarantees competition and the best price for government goods, saving taxpayers' dollars. I congratulate the gentlewoman from Kansas [Mrs. MEYERS] and the gentlewoman from Illinois [Mrs. COLLINS] on their joint bipartisan effort on this bill and the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CHRYSLER. Mr. Chairman, I move to strike the requisite number of words in opposition to the Collins amendment and urge my colleagues to vote against it.

The amendment furthers the notion that Congress is in the business of micromanaging the operations of the executive branch and removes the fundamental reforms included in H.R. 1670, the Federal Acquisition Reform Act.

The current system has confronted industry vendors with a maze of red-tape, often amounting to a step-by-step prescription that increases staff and equipment needs and leaves little room for the exercise of good business judgment, initiatives, and creativity. H.R. 1670 would remove these unneeded prescriptions and move the system closer to a more commercial-like process by allowing industry sellers and government buyers to offer and acquire respectively maximum value for the taxpayer.

Unfortunately, the gentlewoman's amendment would counter this drive to streamline and simplify the process. Instead, her amendment strips the fundamental reform included in H.R. 1670 and adds more requirements and more micromanagement to the already arcane procurement codes.

Mr. Chairman, H.R. 1670 would enhance competition for government contracts, focused on the government's requirements, improved communications between government buyers and industry sellers, and reduce the Federal Government's operating costs by increasing its reliance on the private sector for commercial products.

NFIB is neutral on this issue, and I strongly urge my colleagues, to vote against this amendment.

Mr. HORN. Mr. Chairman, will the gentleman yield?

Mr. CHRYSLER. I yield to the gentleman from California.

Mr. HORN. Mr. Chairman, I thank the gentleman very much for yielding.

I have listened to this debate and I cannot believe we are talking about the same bill. I have heard a lot about scandals. The fact is the scandals occurred under the present system, and what we are trying to do is change the present system.

We clearly spell out, if you have read the bill, that they shall obtain full and open competition that provides open access and that is consistent with the need to efficiently fulfill the Government's requirements. Open access is defined on page 21:

> When used with respect to a procurement means that all responsible sources are permitted to submit sealed bids or competitive proposals on the procurement.

Mr. Chairman, what this bill does is spell out that the Government must note its requirements, apply certain weights to them based on the type of procurement, and than everyone can submit their procurement. What is holding small business up is also holding big business up, and that is shelves of regulations, shelves of bureaucracy to go through. This tries to simplify the system to protect the taxpayers, No. 1, and to provide for the responsible bidders to gain a contract that they can actually fulfill, No. 2.

I urge my colleagues to vote against the Collins amendment.

Mr. CHRYSLER. I yield back the balance of my time, Mr. Chairman.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very difficult situation where we are posited between two committee chairmen, the gentleman from Pennsylvania [Mr. CLINGER]; the chairman of the Committee on Government Reform and Oversight, and the gentlewoman from Kansas [Mrs. MEYERS] the chairwoman of the Committee on Small Business. Both of these chairmen have as their goal the streamlining of the acquisition process because it is good for the Government and it is good for businesses of all types. I think, however, we have to take a closer look at the reason for the Collins-Meyers amendment, and that is to ensure that small businesses have a stake in the procurement process.

Mr. Chairman, we can go through the different organizations that are for and against this bill, but I think probably the most compelling reason for the Collins-Meyers amendment is by the inspector general of the Department of Defense, a person who is in a civil service position. This is a nonpolitical position. I would quote briefly from the remarks from the letter that is opposed to the underlying bill and it states as follows:

It says, under the definition section, the word competitive procedures would have an added definition of ''open access.'' We disagree with the changes. The revised definition of competitive procedures would allow the contracting officer to limit competition on the basis of efficiency. From our point of view, a definition for open access is not needed because under the current statutes all responsible sources are permitted to submit bids or proposals.

He also goes on and he says,

Subsections (b)(1), et cetera, conforming amendments to provide for full and open competition, that provides open access and is consistent with the need to efficiently fulfill the Government's requirements.

The inspector general says we disagree with the changes because we believe this is a further attempt to limit the use of full and open competitive procedures.

Mr. Chairman, back in 1984, this body looked at the situation and it passed the Competition in Contracting Act in 1984, which established the current standard of full and open competition, the standard to which the gentlewoman from Illinois [Mrs. COLLINS] attempts to restore under her amendment.

Mr. Chairman, we are dealing with the public trust. In one sense the Government cannot be as selective as the private sector with whom it does business. Everybody deserves an opportunity to compete for a Government contract. The examples are there. Prior to the act, there was a bid for a flame holder for the F–100 engine for the Air Force. The bid came in at $5,000, depending upon the size of the buy. When the Air Force restricted the purchase of the prime contractor, the cost jumped to $16,000 per flame holder.

And, again, a divergent nozzle segment for the F–100. The bid went from $2,400, when there was essentially sole sourcing, down to $1,000 per unit from the same contractor when this type of competition was allowed.

Mr. Chairman, the small business people of this country are very much concerned that they have a stake, that they have the ability to compete in the procurement process. In the area which I represent, in the northern part of Illinois, over 6,000 different contracts have been signed by businesses with the Federal Government over the past 10 years. We are not talking about an inside-the-beltway type of thing. We are dealing literally with tens of thousands of small businesses that want to get involved in selling to the Federal Government.

The Collins-Meyers amendment strengthens a good bill. It strengthens the bill of the gentleman from Pennsylvania [Mr. CLINGER]. It is not a weakening amendment. Members of this body voted overwhelmingly a few months ago to adopt the Collins amendment to the DOD authorization bill. Members of this body are already on record in being in favor of advocating small businesses becoming involved with the procurement process. Therefore, Mr. Chairman, I would urge the Members of this body to back the Collins amendment. It is good for the United States of America, and it is good for small business.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, despite my high regard for the ranking Democrat on this committee and what I know to be her intent, and from her perspective improving this bill, I think it is only the responsible thing to do to put on the record how the Democratic White House, the people who have worked on reinventing government, on attempting to streamline government, the people who, in fact, on a day-to-day basis, were vested with the responsibility of carrying out the contractual obligations of the United States receiving bids, granting contracts, and, in fact, carrying out the laws that we entrust with them.

The Department of Defense, the executive branch, really need to be heard from on this bill. I think the most important sentence in the statement of administration policy, which is dated today, September 13, 1995, says, the very first sentence, the administration supports House passage of H.R. 1670 as reported by the Government Reform and Oversight Committee.

So, Mr. Chairman, while I understand the good intent of this amendment, the fact is that this amendment would change the legislation as reported by the committee and, thus, the Clinton administration does not support this amendment.

☐ 1900

Mr. Chairman, I am going to explain in the White House's words why they do not support this amendment.

In a letter from the Defense Department, which explains the support for H.R. 1670 and the opposition of this amendment, the Department of Defense explains that it will add significant bureaucratic burden without furthering the goal of acquisition streamlining. The Defense Department supports the concept that Government can no longer afford the time and the administrative burden associated with the requirement that every potential Government source must be allowed to compete even when not all of those sources have a realistic chance of receiving the contract. Thus DOD supports the enactment of the broad generic authority to downselect that is not hampered by excessive procedural detail. This will leave the executive agency free to implement the authority in a flexible manner, enhancing the effectiveness of the authority. In addition, allowing agencies to limit the number of offerers in the competitive range to three, the contracting officer determines the such action is warranted by considerations of efficiency which similarly enable agencies to expedite the procurement process and allow offerers that do not have a real chance of receiving the award to save time and money by being removed sooner rather than late in the process. That is a realistic, rational approach to Government procurement reform.

So I agree with the administration. I think we need to continue procurement reform. The statement of administration policy, of Clinton administration policy, says that this is the one bill that continues the procurement reform that they have consistently supported. That is why, and I state again for emphasis, the Clinton administration supports House passage of this very bill before us as reported by the Committee on Government Reform and Oversight without amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentlewoman from Illinois.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(On request of Mrs. COLLINS of Illinois and by unanimous consent, Mr. MORAN was allowed to proceed for 1 additional minute.)

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, what the gentleman did not read on this some statement that he has before him, right on down under title I it says, even though it does say supports passage of the bill, it says, however,

the language in title I has raised concerns about the Government's commitment to vigorous competition. With those concerns being raised, it seems to me the Government has not said it does not want full and open competition. It raises that concern, the concern is there. It is stated on the same piece of paper that the gentleman just got through reading from, and that has to be taken into consideration.

I favor the bill as is written with one exception, that it does not contain full and open competition. Full and open competition would make this bill much better. It makes it workable. It erases the concern that the Government has, that the administration has, on this piece of legislation. It is a worthy amendment that betters this bill. It does not weaken it in any way. It is an amendment that should be passed by this House of Representatives tonight.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has again expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 30 additional seconds.)

Mr. MORAN. Mr. Chairman, I would suggest to the chairman that we hand out the statement of administration policy to all of the Members. They can reach their own conclusion as to what it says, but I would also ask the Democratic Members of this House particularly to call the White House and to ask them their position both on this amendment as well as on passage of the bill.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 13, 1995.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)—H.R. 1670—Federal Acquisition Reform Act of 1995—(Clinger (R) PA and 16 cosponsors)

The Administration supports House passage of H.R. 1670 as reported by the Government Reform and Oversight Committee.

H.R. 1670 makes a number of important steps to simplify the procurement process, reduce bureaucracy, and make it easier for the Government to select suppliers committed to good performance. In particular, the Administration supports the provisions that authorize simplified procedures for use in commercial product acquisitions, streamline ''procurement integrity'' requirements, and eliminate statutorily mandated layers of review that slow down the procurement process without adding value.

The Administration will continue to work with Congress to address concerns with:

Title I, which redefines ''full and open competition'' and authorizes ''procedures other than competitive procedures'' where competitive procedures are ''not feasible or appropriate''. The Administration appreciates the Committee's intent to authorize the streamlined competitive methods the Administration has sought without micromanaging in statute. The Administration agrees with the conclusion embodied in Title I that significant reforms of the way in which competitions are conducted are needed. These would include (1) authorizing innovative ''two-phase procedures'' allowing elimination of uncompetitive bidders prior to full competitive proposals, and (2) allowing reduction of the competitive range, after receipt of proposals, in order to conduct an efficient procurement. However, the language in Title I has raised concerns about the Government's commitment to vigorous competition. The Administration therefore recommends consideration of its proposal to authorize the aforementioned streamlined procedures in statute.

Title IV, concerning bid protests. While Title IV has been improved since its introduction, it still does not go far enough to reduce excessive litigation, intrusive discovery techniques, and adversarial relations between suppliers and the government customer. The Administration would support an amendment that would reduce the litigation burden associated with Federal procurement. The Administration also continues to have concerns about consolidation of claims and protests into a single forum. Finally, the Administration has a constitutional concern with the manner in which Appeals Board judges would be appointed. These officials should be appointed by the heads of the agencies in which the Boards are located—the Department of Defense and the General Services Administration—respectively.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask a few questions, if I could, to the chairman of the committee and the author of this legislation to try to clear up, I think, some comments that have been made perhaps in haste, or misunderstanding, on the floor.

First of all, as I read the bill and I read this amendment, if this amendment fails, is not the standard in the bill still full and open competition?

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Absolutely, and that is one of the changes that has been made, frankly, since we last considered this measure, the DOD authorization bill. There was a concern that we were eliminating the language which has been relied on so long and so—for so many years, and so we put that language back in. Full and open competition is still the standard, and what we have done is say everybody, access to everybody can come in. We have not changed that in any way.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I think within their own committee's report, it says the section would amend to define the terms ''open access'' and ''competitive procedures'' as the operative elements of the new competition standard. According to the new definition, open access would be achieved when all responsible sources are permitted to submit offers under competitive procedures, and then they define competitive procedures. Competitive procedures would be defined as those under which an agency enters into a contract pursuant to full and open competition that provides open access and is consistent with the Government's needs to efficiently fulfill its requirements. That is the concern of small business.

Mr. DAVIS. Let me ask the gentlewoman from Kansas then are there any notice provision that she has eliminated in her amendment, and I would ask both, as I understand it, what notice provisions now will not go out to small businesses under this that would have gone out, that would go out, if this amendment passes?

Mrs. MEYERS of Kansas. I just know that in the competition requirements, in the contracting requirements, they have eliminated the competition requirements. They have eliminated four pages.

At the end of that they say standards for determining when the competitive procedure is not feasible or appropriate shall be set forth in the Federal acquisition regulation.

In other words, the bureaucrats decide what is feasible and what is appropriate, and that is what scares small business.

Mr. DAVIS. Let me ask, if I can, the author of this bill the standards for notice, if I can, for the procurements in this. Are they changed at all.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Not in any respect.

Everybody is going to be fully aware of what is out there.

Mr. DAVIS. Now let me put sole source to one side just for one second. Can anyone bid on the procurement regard? Is there any bar to anyone bidding that is in this bill?

Mr. CLINGER. There is no bar to anybody who is, as my colleague knows, anyone can get in and bid on these Government procurements.

Mr. DAVIS. And, as I read this, the amendment and the bill, there was some rhetoric about these decisions were made by Government bureaucrats. I guess they are talking about Government procurement officers, behind closed doors, back-door decisions. But, as I read the sole-source requirements under the bill, they are the same seven source-sole requirements that currently are in operation that this amendment does not affect?

Am I correct?

Mr. CLINGER. That is exactly correct. That is exactly correct.

Mr. DAVIS. And I think when we start talking about this, we have to talk what is the current state of where we are now. Where does the administration stand on this?

Mr. CLINGER. Well, I think it bears repeating. The administration in their statement we received tonight supports House passage of H.R. 1670 as reported by the Committee on Government Reform and Oversight, and I think the gentleman from Virginia indicated some of the reasons behind that, that determination, which were afforded to the Department of Defense.

Mr. DAVIS. My comments are simply this, and why I oppose the amendment:

I understand the intentions of this and the concerns that have been raised,

but I think they are bogus in this case. I think we have—what we are doing to some extent is we are allowing the Government buyer, if my colleague will, the contracting officer or procurement officers—to make some decision, but we are allowing it earlier in the game.

I was a procurement attorney for 15 years, and I can tell the gentleman many times we would go out there and spent tens of thousands, sometimes hundreds of thousands, of dollars on a procurement and never really have had a chance at it at all after that money was spent.

As I understand, if this amendment is defeated, one can still bid on the procurement. There is no bar to anyone bidding on these procurements, but they will know earlier in the process, before vast sums are expended, that they are outside the competitive range. That is a savings to these small firms, and many of them, I think, would welcome this.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. One other point.

It has been suggested here that some nameless, faceless bureaucrats squirreled away someplace are going to be writing regulations that are going to limit, and restrict, and exclude people from the process. That is absolutely not true.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. DAVIS] has expired.

(On request of Mr. CLINGER and by unanimous consent, Mr. DAVIS was allowed to proceed for 2 additional minutes.)

Mr. CLINGER. That is absolutely untrue. What we are saying is that the procurement officials, very front and center, they are very much on the front line of the decisions that they make, are going to be given a little more flexibility, a little more discretion, in how they do these things. They are going to be answerable for decisions they make, and, in fact if they exclude people, they have to go on record in writing why and on the basis on which they excluded those people from the competition.

So, it is not a nameless, faceless bureaucrat. It is going to be a very visible procurement officer.

Mr. DAVIS. In fact, as I understand the legislation, the gentleman has even stricter standards in terms of bid protests, in terms of what those criteria are going to be.

Mr. CLINGER. Tighten those and make them much stronger.

Mr. DAVIS. Let me just ask why because I understand it is well intentioned, and I applaud the gentlewoman from Illinois for offering this the first time in the authorization bill, although it was narrowly defeated. A lot of the opposition at that time was the fact it was approach to the authorization bill and was not free-standing. In this we have made concessions in this to try to accommodate some of the concerns that were rightfully raised, and I applaud her for that.

But the central issue here is, should the Government in its procurement operate on a ''one size fits all'' standard, or are we going to allow the buyer, are we going to allow that agent then who is trying to get the best price they can for the Government, the flexibility to do the right thing, the flexibility to make those determinations, and, once again, the sole criteria is not changed one iota under the current law, and this amendment does not affect that at all.

All the rhetoric notwithstanding it says decisions are going to be made in the back room. The decisions on sole source do not change one bit under this.

Mr. Chairman, I urge opposition to this amendment.

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the Collins-Meyers amendment.

Mr. Chairman, it is amazing to listen to this debate as I was listening to it a few minutes ago from my office. I had to ask myself if this is 1995. Have we forgotten what it used to be like? Have we forgotten the fact that there was a time when only a few could really compete and be successful with government procurement, not only in Federal Government, but in State government. We had situations where they did not even make public procurement opportunities. We have had people fighting now for years so that we can shine some light on the opportunities that are available, and put in publications and made public. We have had to take away the opportunity for just a few to participate because there were bureaucrats who could literally hand it out to those they thought should get it. It was a little old comfortable network of folks who could be successful, and my colleagues know this procurement game.

Yes, we could set up a situation that I hear people talking about on the floor today where we could have bureaucrats say, ''Oh, I don't think this person, or that person, or this business is big enough, or smart enough, or the proposal doesn't look good enough, or it comes from a strange part of the country.'' We did not know that they had these kinds of operations there. They could do all of those things and exclude people from bidding, from participating. They could cut a lot of small businesses out that could be successful if they only had a decent chance to compete.

But we do not want to go back to those days. We do not want to allow any one, or two, or three individuals to decide that they know best without people having a real opportunity to be evaluated.

We talk about merit day in and day out. Well, I want my colleagues to know that is what this discussion is about, that is what this debate is about. It is about whether or not the Federal Government is going to open up opportunity for everybody.

I hear a lot about suspect for small businesses, but this is the real test. This is the test of whether or not we are going to let small businesses, some of whom have not been successful in the past, but they are willing to continue to spend their money, they are willing to continue to knock on these doors, they are willing to continue to work hard to get a piece of this government business. Do not close the door not, and, please, do not make the argument about it is inconvenient.

Mr. Chairman, I do not care about anybody's proposal for streamlining government. Of course we want to streamline government. But we do not ever want to conclude that it is too inconvenient for us to allow small businesses to compete, to allow those who have not had opportunities in the past. This is a test of whether or not those who stand up time and time again talking about how America is made up of small businesses and how they need, but have the opportunity, to participate, to see where they really stand for the opportunity for small business to participate.

□ 1915

We are talking about opening it up, fair competition. We are talking about evaluating. We are talking about merit. This is a time to use to open the doors, not close them, not exclude, not keep out small businesses and women and others who have not been successful in this process in the past, because we have had those bureaucrats who can make decisions and not really evaluate people on their ability to perform.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words.

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, I strongly support H.R. 1670 and encourage our colleagues to vote for its passage. ''Better,'' ''faster,'' ''cheaper'' are more than buzz words, Mr. Chairman. Last Congress we began efforts to make these words a reality as we began the process of streamlining the Federal acquisition process. Starting with the enactment into law of FASA, the Federal Acquisition Streamlining Act, H.R. 1670 builds on that initiative.

I would like to address right now, however, two issues that I think need more clarification. First is the administration's position. My colleague from Virginia [Mr. MORAN] read some excerpts from the statement of administration policy, and I would like to read some others, because they bear on the issue of this amendment.

The administration appreciates the committee's intent to authorize the streamlined competitive methods the administration has sought without micromanaging in statute.

These would include, one, authorizing innovative two-phased procedures allowing elimination of uncompetitive bidders prior to full competitive proposals; and, two, allowing reduction of the competitive range after receipt of proposals in order to conduct an efficient procedure.

I do not think, Mr. Chairman, that efficiency is the only goal, but it is a valid goal. The other goals are opportunity, and ''better'', ''faster'', ''cheaper'', and I think what we are trying to do here is to achieve a balance among three good goals.

Let me further read some language from the Department of Defense, which has a position on the Meyers amendment, which is not going to be offered today but, nonetheless, which also relates to this amendment. These defense views were prepared before it was clear that the Meyers amendment would be withdrawn, and they are in opposition to the Meyers amendment, making this statement:

The Department of Defense supports the concept that government can no longer afford the time and the administrative burden associated with the requirement that every potential government source must be allowed to compete, even when not all of those sources have a realistic chance of receiving the government contract. Thus, DOD supports the enactment of broad, generic authority to down-select that is not hampered by excessive procedural detail,'' and so forth.

And it goes on to be more specific about the Meyers amendment.

I would like to say this. As a general matter, though, it is kind of difficult to parse it all. The administration has suggested its opposition to these amendments, not because it is opposed to opportunity, but because it thinks that the reinventing government idea, which should apply to procurement, requires change. After all, if it does not, we will never get to a better allocation of scarce dollars. Change is painful. I think that our colleague, the gentlewoman from Illinois [Mrs. COLLINS], has been enormously helpful in this conversation, but my own conclusion, based on my experience with defense procurement and my effort to parse and understand this complex material, is that if we are ever to get to a balance among three goals: Efficiency, ''better'', ''faster'', ''cheaper'', and opportunity, we ought not to adopt this amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentlewoman yield?

Ms. HARMAN. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, we are still talking about the administration policy, the statement of administration policy, and it says right here on this third paragraph,

The administration will continue to work with Congress to address concerns with title I, which redefines full and open competition and authorizes procedures other than competitive procedures where competitive procedures are not feasible or appropriate.

This tells me that the administration has not signed off on that part of the bill. It tells me that there is still some concern that has been raised. Full and open competition has given the administration concern. They said, ''However, the language in title I has raised concerns about the government's commitment to vigorous competition.'' Therefore, the Collins-Meyers amendment is absolutely on time and on target.

Ms. HARMAN. Mr. Chairman, reclaiming my time, the first sentence as read by the gentleman from Virginia [Mr. MORAN] says, ''The Administration supports passage of H.R. 1670 as reported by the Committee on Government Reform and Oversight.''

In conclusion, just let me say again that I reluctantly oppose this amendment and I believe that the administration and specifically the Defense Department are in opposition to this amendment.

Mrs. COLLINS of Illinois. If the gentlewoman will continue to yield, I think it is great for you and for others to recite the very first line in this statement, adding line No. 3, to point out the concerns.

Ms. HARMAN. Mr. Chairman, reclaiming my time, this is a very complex and opaque statement of position, I agree with you, but I have read other lines on this proposal.

Mrs. COLLINS of Illinois. If the gentlewoman will continue to yield, then why are we using this?

The CHAIRMAN. The time of the gentlewoman from California [Ms. HARMAN] has expired.

(On request of Mr. CLINGER, and by unanimous consent, Ms. HARMAN was allowed to proceed for 1 additional minute.)

Ms. HARMAN. I yield to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, in case there is any confusion, I would like to refer to the letter from the Under Secretary of Defense, Mr. Longuemare, who does say—

The Department of Defense is strongly opposed to the proposed amendment and believes that it will add significant bureaucratic burden without furthering the goal of acquisition streamlining.

I think that is unequivocal and very clear.

Ms. HARMAN. Mr. Chairman, reclaiming my time, this letter is directed to the Meyers amendment, not to the Collins amendment.

Mr. CLINGER. If the gentlewoman will continue to yield, they are, however, very close cousins.

Ms. HARMAN. Mr. Chairman, reclaiming my time, I would agree with the gentleman that they are close cousins, and I would also say to the gentlewoman from Kansas [Mrs. MEYERS] that her leadership on the Committee on Small Business is unassailed and it is with great diffidence that I stand here and suggest that we ought to support the original text of the legislation.

The CHAIRMAN. The time of the gentlewoman from California [Ms. HARMAN] has expired.

(On request of Mrs. MEYERS of Kansas, and by unanimous consent, Ms. HARMAN was allowed to proceed for 2 additional minutes.)

Ms. HARMAN. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, something is in the administration statement that is really puzzling me. It was just pointed out to me. It says,

The administration agrees with the conclusion embodied in title I that significant reforms of the way in which competitions are conducted are needed. These would include, one, authorizing innovative two-phased procedures, allowing elimination of uncompetitive bidders prior to full competitive proposals; and, two, allowing reduction of the competitive range after receipt of proposals in order to conduct an efficient procurement.

Those are not in the bill. Those are not in H.R. 1670 as it stands right now. So I think that those would have been in had my amendment been adopted. I decided instead to support the Collins amendment. Mine was much longer and I thought it may be too complex. But those two factors that are addressed in the administration's statement are simply not in the bill.

Ms. HARMAN. Mr. Chairman, reclaiming my time, I appreciate my friend's words, but I do not believe it is a correct statement of the bill's provisions.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, I rise in support of the Collins amendment that would open competition for small business, and I think it is appropriate that our chairman of the Committee on Small Business is also supporting it.

The Collins amendment retains the current practice allowing all business to compete for government procurement contracts under full and open competition. The bill would restrict competition by allowing agency employees, those so-called terrible bureaucrats, to limit the companies allowed to compete. The Collins amendment was previously adopted in this House on the DOD Authorization Act on June 14 allowing for consideration of procurement reform, and the Collins amendment was supported by a great many different groups, including the Small Business Working Group, the U.S. Chamber of Commerce, the Small Business Administration, and of course the chair of the Committee on Small Business, the gentlewoman from Kansas [Mrs. MEYERS]. There are also other groups, the Latin American Management Association, the National Association of Minority Businesses. It is very important that they have an ability to compete for Government contracts on equal footing if they can do the job.

I think that is what this whole effort is about, to bring more competition to help to lower the cost to the taxpayers in this bill. That is why I voted for the bill coming out of committee, and I hope we can improve it a great deal tonight with the Collins amendment.

Mrs. MALONEY. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentlewoman from New York.

Mrs. MALONEY. Mr. Chairman, I just would like to respond to some of the prior speakers on the administration policy statement, which just arrived at the last minute. I might note that it does not address what the Meyers-Collins amendment is addressing, which is full and open competition. When it does, it waffles, and I quote title I: ''* * * has raised concern about the government's commitment to vigorous competition.''

Mr. Chairman, I would like to underscore and highlight my support of the statement made by the gentlewoman from Kansas, in that when it does go into detail it talks about items that were in her amendment that are not in the amendment that is before the body now.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, let me just say, I agree with the gentlewoman from California [Ms. HARMAN] that the statement of administration policy in the letter that we have could be clearer, but clearly it is authentic, because it is obvious that is written by Federal bureaucrats.

I love Federal bureaucrats, as the gentlewoman knows I do, they are my constituents, but it clearly is authentic. If it was not authentic, it might be easier to read.

Mrs. MALONEY. Mr. Chairman, if the gentleman will continue to yield in order to respond, I am not questioning whether it is an authentic statement or not. I am saying that it does not address what we are debating now, which is the Meyers-Collins amendment, which goes to the heart of procurement reform, the procurement debate, which the Small Business Administration and so many other small businesses have reached out to us, and that is preserving full and open competition. It talks about a lot of other things and a lot of other concerns, but it does not directly address the concerns that are before us in this particular amendment.

Mr. MORAN. Mr. Chairman, if the gentleman will continue to yield, I did not make the statement or the point that I wanted to make.

The CHAIRMAN. The time of the gentleman from Texas, Mr. GENE GREEN, has expired.

(On request of Mrs. COLLINS of Illinois, and by unanimous consent, Mr. GENE GREEN of Texas was allowed to proceed for 3 additional minutes.)

Mr. GENE GREEN of Texas. I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, we are at the point, I believe, where we are going to vote very, very shortly on the Collins amendment.

I just want to point out that this amendment is the same identical amendment that we voted on in June of this year. Not a word of it has been changed. It made good sense then, it makes good sense now. This bill does not preserve full and open competition.

What it does is put a statutory bait and switch on the House and on the American public. I think that we cannot do those kinds of things. We must in fact vote for the Collins-Meyers amendment, because we want to be fair, we want to do the right thing by small business, we want to do the right thing by large business, we want to do the right thing by American business.

We want everybody to have an opportunity to play a part as being vendors for the American dollar. We are all taxpayers here. Everybody who pays taxes, everybody who pays taxes one way or the other has a right to have a small business. They have a right to have a low cost. They have a right to have the Government accept their bids and to be looked at carefully.

They do not have the right, they do not have the right to have somebody just say arbitrarily that we do not want to take your bid. We do not want your business, because we have to have a deal someplace else.

Mr. Chairman, it makes good sense, it makes fair sense to vote for the Collins-Meyers amendment on full and open competition.

□ 1930

Mr. BLUTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Collins amendment.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I just want to make a couple of points in closing. We have had a spirited debate. I think it has been a good debate. I just wanted to make a couple of points as we conclude this debate.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank my good friend from Massachusetts for yielding.

Mr. Chairman, I wanted to speak before the chairman of the committee, because I want Members to be left with his remarks. But I do think it is useful to respond to some of the questions that have been raised with regard to the language that has come from the White House and from the Department of Defense.

The bottom line is that the White House opposes this amendment and supports the bill. I will conclude with the point that I know, because I have spoken with the White House, that the White House does not support this amendment. It opposes this amendment.

It does support this bill. It has supported this bill consistently. I think that is important for all the Members of the House to know, but particularly for the Democratic Members of the House who wish to support the continuing commitment to Government reform, and particularly to procurement reform as is accomplished by this bill.

Mr. BLUTE. Mr. Chairman, reclaiming my time, I yield further to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I think we have had a very thorough debate. We are ready to vote on this matter. It is clear, there is a significant difference between us on this major issue. I would point out one thing: The gentlewoman from Illinois said not one word, not one comma, not one phrase has been changed in this amendment; it is exactly the same amendment we voted on in June.

That is true. What has changed is the underlying bill to which the amendment is proposed. We have made significant changes in the underlying bill which we considered in June. We have accommodated many of the concerns that were raised by the gentlewoman from Illinois and by others with regard to the small business concerns. I think we have addressed those. We did not have, for example, the language ''full and open competition'' in the bill that we considered in June. That is now in there. We have made a number of other changes that I think should go a long way toward addressing it.

What we have not done though is give way on a significant, significant factor, and that is the factor that we really need to get flexibility. We need to give these procurement officers who are going to be very public in their decisions some ability to do the best thing for the government. The Government, after all, is who we are trying to assist in getting the biggest bang for the bucks that we spend.

So I would just in closing point out a couple of other things that need to be pointed out. It was alluded earlier and I want to stress it again that there was perhaps support of the NIFB. They did support this measure in June. They no longer do support this measure in September. The Chamber of Commerce has just informed us that they do not support this amendment at this particular time because of the fact that we have made significant progress in addressing those concerns.

In fact, the others who strongly support our bill range from the American Electronics Association, American Defense Preparedness Association, Contract Services Association, and, most importantly, Mr. chairman, most importantly, it has the very strong support of the Americans For Tax Reform, the National Taxpayers Union, and other groups that have been real watchdogs in trying to hold down

spending to get the biggest bang for their buck.

We feel that this bill is going to enable us to attack that 20 percent premium which we now pay on almost all goods and services that we deal with in the Federal Government. We really think this is the best opportunity we have, perhaps in this Congress, to effect the kinds of savings that we need to do to get to a balanced budget. So I must reluctantly but firmly urge a ''no'' vote on the Collins amendment. I really think that it would undercut, perhaps not gut, but seriously impair the ability for us to get the savings we are after.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Small Business Association and the White House Conference on Small Business, as well as the American Chamber of Commerce, supports this amendment. It is ironic to me that we are opposing open government, when all we have heard this year is the angry feelings out there where people feel they do not have access to their government. I do not believe that this issue has been addressed in the bill. If it had been, we would not be considering this amendment.

Small businesses will want access to their government. They are not asking for a handout. They simply want consideration. They do not want to be barred from submitting bids. It seems to me that the least we can do is protect our small business people and protect our taxpaying citizens and allow that their bids be considered.

The good-old-boy network has worked for many years, not because it has been supported by the general public, but because they never had an opportunity to get in the door to prove that they can do adequate work. I think that this amendment will do that.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I would just like to say that I have a letter here from the chamber dated September 12. It says:

Further, a strong case would have to be made to justify the modification of the standard and practice of full and open competition that has worked well for more than a decade since the enactment of the Competition in Contracting Act of 1984. The Chamber believes that increased awards to small business over the past decade through full and open competition and the subsequent growth of a number of these companies demonstrates the effectiveness of this standard.

I think they strongly endorse the principle, Mr. Chairman, and I think they wrote that letter when they thought it was going to be my amendment. They were not aware it was going to be another amendment. I think that is the only reason that they have stated this withdrawal. They strongly support full and open competition. I think they support the concept, and I am not at all ashamed to associate their name with this. We have taken the names off anything printed. But I have been working with them all along. They knew last week what was in the bill of the gentleman from Pennsylvania [Mr. CLINGER] and they still felt that it would be wrong to remove full and open competition.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, reclaiming my time, I would simply close by saying we owe it to our small businesses, we owe it to our general business community, to allow them access to their own government.

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to respectfully offer what I believe are two corrections in the debate here. The first is we were informed by the staff from the majority leader's office that the U.S. Chamber of Commerce has not taken an official position on this amendment, which, if correct, means, of course, they have not endorsed this amendment one way or the other.

Second of all, more central to this debate, it is statements that are starting to be made that the advocates of the amendment say they want free competition and full competition and fair competition so small business can enter bids and be considered. All of that remains under this bill. H.R. 1670 does not change any of that. All that H.R. 1670 changes is that it allows a procurement officer to make an earlier decision in a process to take certain bids out of consideration so that a smaller number of bids more likely to be accepted to the Government's needs will go through and be reviewed further along the line. That is all that it does.

The point is that everybody can submit a bid, just as they have always been able to submit a bid. Further, the appellate process for the purpose of procurement remains in effect. So anyone who believes, whether they are small business or large business or anyone else, that their procurement has not been handled fairly, that they were rejected early in the process without good justification, they can appeal that. So their rights are protected.

The point is, we are trying to make Federal procurement look like and function more like private procurement, because we have seen the strides that business has made in terms of accomplishing its goals, which, of course, are to get the best possible product at the best possible price. That ought to be the Government's goal.

Mr. FAZIO of California. Mr. Chairman, I rise in support of the Collins amendment.

The way the bill is currently written it would restrict true competition and would allow agency bureaucrats to limit small businesses from competing on Government contracts.

I would also like to point out to the rest of my colleagues that a similar amendment was passed as part of the DOD Authorization Act of 1996 by an overwhelming margin.

The Collins amendment is pro small business and is supported by the U.S. Chamber of Commerce, the Small Business Working Group, and the Small Business Administration.

The Collins amendment would retain the current practice of allowing all businesses to compete for government procurement contracts under full and open competition.

I ask my fellow colleagues to support the Collins amendment and allow for fair and open competition of all business.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 239, not voting 13, as follows:

[Roll No. 660]

AYES—182

Abercrombie	Gephardt	Neal
Ackerman	Gibbons	Oberstar
Baesler	Gonzalez	Obey
Baldacci	Gordon	Olver
Barcia	Green	Ortiz
Barrett (WI)	Gutierrez	Orton
Becerra	Hall (OH)	Owens
Beilenson	Hamilton	Pallone
Bentsen	Hastings (FL)	Pastor
Berman	Hefner	Payne (NJ)
Bishop	Hilliard	Payne (VA)
Boehlert	Hinchey	Peterson (FL)
Bonior	Holden	Peterson (MN)
Borski	Hoyer	Pomeroy
Boucher	Jackson-Lee	Poshard
Brewster	Jacobs	Rahall
Brown (CA)	Jefferson	Rangel
Brown (FL)	Johnson (SD)	Reed
Brown (OH)	Johnson, E. B.	Richardson
Bryant (TX)	Johnston	Rivers
Bunn	Kanjorski	Roberts
Clay	Kaptur	Roukema
Clayton	Kelly	Roybal-Allard
Clyburn	Kennedy (MA)	Rush
Coleman	Kennedy (RI)	Sabo
Collins (IL)	Kennelly	Sanders
Collins (MI)	Kildee	Sawyer
Condit	Kingston	Schroeder
Conyers	Kleczka	Schumer
Costello	Klink	Scott
Coyne	LaFalce	Serrano
Cramer	LaHood	Skaggs
Danner	Lantos	Slaughter
DeFazio	Levin	Spratt
DeLauro	Lewis (GA)	Stark
Dellums	Lincoln	Stokes
Deutsch	Lipinski	Studds
Dingell	LoBiondo	Stupak
Dixon	Lowey	Taylor (MS)
Doggett	Luther	Tejeda
Dooley	Maloney	Thompson
Doyle	Manton	Thornton
Durbin	Manzullo	Thurman
Edwards	Markey	Torres
Engel	Martinez	Torricelli
Ensign	Mascara	Towns
Eshoo	McCarthy	Traficant
Evans	McDermott	Velazquez
Farr	McHale	Vento
Fattah	McKinney	Visclosky
Fazio	McNulty	Volkmer
Fields (LA)	Meehan	Ward
Filner	Meek	Waters
Flake	Menendez	Watt (NC)
Foglietta	Meyers	Waxman
Forbes	Mfume	Wise
Ford	Miller (CA)	Woolsey
Frank (MA)	Mineta	Wyden
Frelinghuysen	Minge	Wynn
Furse	Mink	Yates
Gejdenson	Nadler	

NOES—239

Allard	Archer	Bachus
Andrews	Armey	Baker (CA)

Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lofgren
Longley
Lucas
Martini
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Cox
de la Garza
Frost
Herger
Moakley
Mollohan
Myrick
Pelosi
Reynolds
Rose
Sisisky
Tucker
Waldholtz

□ 2000

Messrs. CREMEANS, WILLIAMS, and WAMP changed their vote from ''aye'' to ''no.''

Mr. DOYLE, Ms. ESHOO, Mr. FARR, and Mr. MASCARA changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS:

Add at the end of title I (page 36, after line 9) the following new section:

SEC. 107. TWO-PHASE SELECTION PROCEDURES.

(a) ARMED SERVICES ACQUISITIONS.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

''§ 2305a. Two-phase selection procedures

''(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build is used or another acquisition procedure authorized by law is used, the head of an agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use.

''(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

''(1) The extent to which the project requirements have been adequately defined.

''(2) The time constraints for delivery of the project.

''(3) The capability and experience of potential contractors.

''(4) The suitability of the project for use of the two-phase selection procedures.

''(5) The capability of the agency to manage the two-phase selection process.

''(6) Other criteria established by the agency.

''(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

''(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. When the two-phase selection procedure is used for design and construction of a public building, facility, or work and the agency contracts for development of the scope of work statement, the agency shall contract for architectural/engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

''(2) The contracting officer solicits phase-one proposals that—

''(A) include information on the offeror's—

''(i) technical approach; and

''(ii) technical qualifications; and

''(B) do not include—

''(i) detailed design information; or

''(ii) cost or price information.

''(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team if the project is for the construction of a public building, facility, or work) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

''(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

''(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

''(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with section 2305(b)(4) of this title. The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

''(5) The agency awards the contract in accordance with section 2305(b)(4) of this title.

''(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

''(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulatory Council, established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)), shall provide guidance and promulgate regulations—

''(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

''(2) regarding the factors that may be used in selecting contractors;

''(3) providing for a uniform approach to be used Government-wide;

(2) The table of sections at the beginning of chapter 137 of such title is amended by adding after the item relating to section 2305 the following new item:

''2305a. Two-phase selection procedures.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303L the following new section:

''(a) AUTHORIZATION.—Unless the 'traditional' acquisition approach of design-bid-build is used or another acquisition procedure authorized by law is used, the head of an executive agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use. The two-phase selection procedures authorized in this section may also be used for entering into a contract for the acquisition of property or

services other than construction services when such a determination is made.

''(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

''(1) The extent to which the project requirements have been adequately defined.

''(2) The time constraints for delivery of the project.

''(3) The capability and experience of potential contractors.

''(4) The suitability of the project for use of the two-phase selection procedures.

''(5) The capability of the agency to manage the two-phase selection process.

''(6) Other criteria established by the agency.

''(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

''(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. When the two-phase selection procedure is used for design and construction of a public building, facility, or work and the agency contracts for development of the scope of work statement, the agency shall contract for architectural/engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

''(2) The contracting officer solicits phase-one proposals that—

''(A) include information on the offeror's—

''(i) technical approach; and

''(ii) technical qualifications; and

''(B) do not include—

''(i) detailed design information; or

''(ii) cost or price information.

''(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team if the project is for the construction of a public building, facility, or work) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

''(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

''(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

''(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with section 303B(d).

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

''(5) The agency awards the contract in accordance with section 303B of this title.

''(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the precedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

''(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulatory Council, established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)), shall provide guidance and promulgate regulations—

''(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

''(2) regarding the factors that may be used in selecting contractors;

''(3) providing for a uniform approach to be used Government-wide;

(2) The table of sections at the beginning of such Act is amended by inserting after the item relating to section 303L the following new item:

''Sec. 303M. Two-phase selection procedures.''.

Mr. DAVIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DAVIS. Mr. Chairman, we had published this in the RECORD. We have made two modifications from what was published. It will have the support of the administration and the committee chair on this. One was expressed by the gentleman from Maryland [Mr. GILCHREST], the other by the administration. We have addressed those.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Maryland.

Mr. GILCHREST. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman on about 98 percent of the content of his amendment. There was one part of the amendment on which we had some confusion with the language referring to stipends for those contractors who were not selected with the award. The gentleman withdrew that section of the amendment, and we have worked out a compromise where we will hold hearings on this portion of the amendment. I am sure we can resolve this problem.

Mr. DAVIS. Mr. Chairman, I would just ask the gentleman, as I understand it, we have stricken the stipend provision, but any existing provisions in law that would allow a government contracting agent, of course, would remain in effect; is that correct?

Mr. GILCHREST. Any existing law remains in effect at this time, yes.

Mr. DAVIS. I thank the gentleman. Let me just add that we have had a coalition of groups that have traditionally been at odds over how Federal procurements these groups compete on should be phrased. We have gotten them together and endorsed this. That includes the American Consulting Engineers Council, the American Institute of Architects, the American Society of Civil Engineers, the Associated Builders and Contractors, the Associated General Contractors of America, the Construction Industries' Presidents Forum, the Design-Build Industry of America, and the National Society of Professional Engineers.

Mr. Chairman, I would just simply say, I did a Dear Colleague letter this morning, but this amendment will, where appropriate, allow the agency buyer to choose between the traditional procurement methodology and the two-phase design-build selection procedure. It will allow the agency to develop either in-house or by contract a scope of work defining the project. The amendment also provides procuring agencies flexibility to determine the level of preliminary design necessary to be acquired, using the traditional method. It will provide the agency flexibility and authority to determine the number of offerors of competitive proposals in the second phase of the procurement process.

It will require the FAR counsel to determine if the two-phase procedures are appropriate for use in individual contracting situations, establish factors that may be used to select contractors, establish a uniform governmentwide approach, and establish criteria for awarding stipends. I would urge adoption of this amendment.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I am glad to yield to the gentleman from Pennsylvania, the distinguished author of this bill and the chairman of the committee.

Mr. CLINGER. Mr. Chairman, I just wanted to commend the gentleman on this amendment. I think it makes a very valuable addition to the bill. As he says, it does not replace the Brooks Act. It requires an alternative method of dealing with the Brooks architect-engineers provision. I think it is a valuable addition, and we are pleased to support the amendment. I commend the gentleman on that and for his help on this.

Mr. DAVIS. I thank the gentleman, and I thank the committee staff and Mrs. Brown for working with us, and the different groups, I ask adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. DAVIS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

The Clerk will designate title II.

The text of title II is as follows:

TITLE II—COMMERCIAL ITEMS

SEC. 201. COMMERCIAL ITEM EXCEPTION TO REQUIREMENT FOR COST OR PRICING DATA AND INFORMATION LIMITATIONS.

(a) ARMED SERVICES ACQUISITIONS.—(1) Subsections (b), (c), and (d) of section 2306a of title 10, United States Code, are amended to read as follows:

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

''(A) for which the price agreed upon is based on—

''(i) adequate price competition; or

''(ii) prices set by law or regulation;

''(B) for the acquisition of a commercial item; or

''(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

''(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception on the submission of cost or pricing data in paragraph (1)(A) or (1)(B), submission of cost or pricing data shall not be required under subsection (a) if—

''(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

''(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

''(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(1) Subject to paragraph (2), when certified cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

''(2) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

''(3) The head of a procuring activity may not delegate functions under this paragraph.

''(d) LIMITATIONS ON OTHER INFORMATION.—The Federal Acquisition Regulation shall include the following:

''(1) Provisions concerning the types of information that contracting officers may consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section, including appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.

''(2) Reasonable limitations on requests for sales data relating to commercial items.

''(3) A requirement that a contracting officer shall, to the maximum extent practicable, limit the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

''(4) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.''.

(2) Section 2306a of such title is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(3) Section 2375 of title 10, United States Code, is amended by striking out subsection (c).

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Subsections (b), (c) and (d) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b) are amended to read as follows:

''(b) EXCEPTIONS.—

''(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or a modification of a contract or subcontract—

''(A) for which the price agreed upon is based on—

''(i) adequate price competition; or

''(ii) prices set by law or regulation;

''(B) for the acquisition of a commercial item; or

''(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

''(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception on the submission of cost or pricing data in paragraph (1)(A) or (1)(B), submission of cost or pricing data shall not be required under subsection (a) if—

''(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

''(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

''(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(1) Subject to paragraph (2), when certified cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

''(2) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

''(3) The head of a procuring activity may not delegate the functions under this paragraph.

''(d) LIMITATIONS ON OTHER INFORMATION.—The Federal Acquisition Regulation shall include the following:

''(1) Provisions concerning the types of information that contracting officers may consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section, including appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.

''(2) Reasonable limitations on requests for sales data relating to commercial items.

''(3) A requirement that a contracting officer shall, to the maximum extent practicable, limit the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

''(4) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.''.

(2) Section 304A of such Act is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

SEC. 202. APPLICATION OF SIMPLIFIED PROCEDURES TO COMMERCIAL ITEMS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304(e) of title 10, United States Code, as amended by section 101(a), is further amended—

(1) in paragraph (1), by inserting after ''special simplified procedures'' the following: ''for purchases of commercial items and''; and

(2) by adding at the end the following new paragraph:

''(4) The Federal Acquisition Regulation shall provide that, in the case of a purchase of commercial items in an amount greater than the simplified acquisition threshold, the head of an agency—

''(A) may not conduct the purchase on a sole source basis unless the need to do so is justified in writing and approved in accordance with the Federal Acquisition Regulation; and

''(B) shall include in the contract file a written description of the procedures used in awarding the contract and the number of offers received.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), as amended by section 101(b), is further amended—

(1) in paragraph (1), by inserting after ''special simplified procedures'' the following: ''for purchases of commercial items and''; and

(2) by adding at the end the following new paragraph:

''(5) The Federal Acquisition Regulation shall provide that, in the case of a purchase of commercial items in an amount greater than the simplified acquisition threshold, an executive agency—

''(A) may not conduct the purchase on a sole source basis unless the need to do so is justified in writing and approved in accordance with the Federal Acquisition Regulation; and

''(B) shall include in the contract file a written description of the procedures used in awarding the contract and the number of offers received.''.

(c) SIMPLIFIED NOTICE.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(5) (as redesignated by section 101(c))—

(A) by striking out ''limited''; and

(B) by inserting before ''submission'' the following: ''issuance of solicitations and the''; and

(2) in subsection (b)(6), by striking out ''threshold—'' and inserting in lieu thereof ''threshold, or a contract for the procurement of commercial items using simplified procedures—''.

SEC. 203. AMENDMENT TO DEFINITION OF COMMERCIAL ITEMS.

Section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F)) is amended by striking out ''catalog''.

SEC. 204. INAPPLICABILITY OF COST ACCOUNTING STANDARDS TO CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.

Subparagraph (B) of section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

''(i) Contracts or subcontracts for the acquisition of commercial items.''; and

(2) by striking out clause (iii).

The CHAIRMAN. Are there any amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—ADDITIONAL REFORM PROVISIONS

SEC. 301. GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.

(a) GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by inserting after section 16 the following new section:

''SEC. 17. GOVERNMENT RELIANCE ON THE PRIVATE SECTOR.

''It is the policy of the Federal Government to rely on the private sector to supply the products and services the Federal Government needs.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by inserting after the item relating to section 16 the following new item:

''Sec. 17. Government reliance on the private sector.''.

SEC. 302. ELIMINATION OF CERTAIN CERTIFICATION REQUIREMENTS.

(a) ELIMINATION OF CERTAIN STATUTORY CERTIFICATION REQUIREMENTS.—(1)(A) Section 2410 of title 10, United States Code, is amended—

(i) in the heading, by striking out ''**: certification**''; and

(ii) in subsection (a)—

(I) in the heading, by striking out ''CERTIFICATION'';

(II) by striking out ''unless'' and all that follows through ''that—'' and inserting in lieu thereof ''unless—''; and

(III) in paragraph (2), by striking out ''to the best of that person's knowledge and belief''.

(B) The item relating to section 2410 in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

''Sec. 2410. Requests for equitable adjustment or other relief.''.

(2) Section 2410b of title 10, United States Code, is amended in paragraph (2) by striking out ''certification and''.

(3) Section 1352(b)(2) of title 31, United States Code, is amended—

(A) by striking out subparagraph (C); and

(B) by inserting ''and'' after the semicolon at the end of subparagraph (A).

(4) Section 5152 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) is amended—

(A) in subsection (a)(1), by striking out ''has certified to the contracting agency that it will'' and inserting in lieu thereof ''agrees to'';

(B) in subsection (a)(2), by striking out ''contract includes a certification by the individual'' and inserting in lieu thereof ''individual agrees''; and

(C) in subsection (b)(1)—

(i) by striking out subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph by striking out ''such certification by failing to carry out''; and

(iii) by redesignating subparagraph (C) as subparagraph (B).

(b) ELIMINATION OF CERTAIN REGULATORY CERTIFICATION REQUIREMENTS.—

(1) CURRENT CERTIFICATION REQUIREMENTS.—(A) Not later than 210 days after the date of the enactment of this Act, any certification required of contractors or offerors by the Federal Acquisition Regulation that is not specifically imposed by statute shall be removed by the Administrator for Federal Procurement Policy from the Federal Acquisition Regulation unless—

(i) written justification for such certification is provided to the Administrator by the Federal Acquisition Regulatory Council; and

(ii) the Administrator approves in writing the retention of such certification.

(B)(i) Not later than 210 days after the date of the enactment of this Act, any certification required of contractors or offerors by a procurement regulation of an executive agency that is not specifically imposed by statute shall be removed by the head of the executive agency from such regulation unless—

(I) written justification for such certification is provided to the head of the executive agency by the senior procurement executive; and

(II) the head of the executive agency approves in writing the retention of such certification.

(ii) For purposes of clause (i), the term ''head of the executive agency'' with respect to a military department means the Secretary of Defense.

(iii) The Secretary of Defense may delegate his duties under this subparagraph only to the Under Secretary of Defense for Acquisition and Technology.

(2) FUTURE CERTIFICATION REQUIREMENTS.—(A) Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is amended—

(i) by amending the heading to read as follows:

''SEC. 29. CONTRACT CLAUSES AND CERTIFICATIONS.'';

(ii) by inserting ''(a) NONSTANDARD CONTRACT CLAUSES.—'' before ''The Federal Acquisition''; and

(iii) by adding at the end the following new subsection:

''(b) PROHIBITION ON CERTIFICATION REQUIREMENTS.—(1) A requirement for a certification by a contractor or offeror may not be included in the Federal Acquisition Regulation unless—

''(A) the certification is specifically imposed by statute; or

''(B) written justification for such certification is provided to the Administrator for Federal Procurement Policy by the Federal Acquisition Regulatory Council, and the Administrator approves in writing the inclusion of such certification.

''(2)(A) A requirement for a certification by a contractor or offeror may not be included in a procurement regulation of an executive agency unless—

''(i) the certification is specifically imposed by statute; or

''(ii) written justification for such certification is provided to the head of the executive agency by the senior procurement executive of the agency, and the head of the executive agency approves in writing the inclusion of such certification.

''(B) For purposes of subparagraph (A), the term 'head of the executive agency' with respect to a military department means the Secretary of Defense.

''(C) The Secretary of Defense may delegate his duties under this paragraph only to the Under Secretary of Defense for Acquisition and Technology.''.

(B) The item relating to section 29 in the table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) (41 U.S.C. 401 note) is amended to read as follows:

''Sec. 29. Contract clauses and certifications.''.

SEC. 303. AMENDMENT TO COMMENCEMENT AND EXPIRATION OF AUTHORITY TO CONDUCT CERTAIN TESTS OF PROCUREMENT PROCEDURES.

Subsection (j) of section 5061 of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 413 note) is amended to read as follows:

''(j) COMMENCEMENT AND EXPIRATION OF AUTHORITY.—The authority to conduct a test under subsection (a) in an agency and to award contracts under such a test shall take effect on August 1, 1995, and shall expire on August 1, 2000. Contracts entered into before such authority expires in an agency pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.''.

SEC. 304. INTERNATIONAL COMPETITIVENESS.

(a) REPEAL OF PROVISION RELATING TO RESEARCH, DEVELOPMENT, AND PRODUCTION COSTS.—

(1) Subject to paragraph (2), section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) is amended—

(A) by inserting ''and'' after the semicolon at the end of paragraph (1)(A);

(B) by striking out subparagraph (B) of paragraph (1);

(C) by redesignating subparagraph (C) of paragraph (1) as subparagraph (B);

(D) by striking out paragraph (2); and

(E) by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (1) shall be effective only if—

(A) the President, in the budget of the President for fiscal year 1997, proposes legislation that if enacted would be qualifying offsetting legislation; and

(B) there is enacted by October 1, 1996, qualifying offsetting legislation.

(3) If the conditions in paragraph (2) are met, then the amendments made by paragraph (1) shall take effect on October 1, 1996.

(4) For purposes of this subsection:

(A) The term ''qualifying offsetting legislation'' means legislation that includes provisions that—

(i) offset fully the estimated revenues lost as a result of the amendments made by paragraph (1) for each of the fiscal years 1997 through 2000;

(ii) expressly state that they are enacted for the purpose of the offset described in clause (i); and

(iii) are included in full on the PayGo scorecard.

(B) The term ''PayGo scorecard'' means the estimates that are made with respect to fiscal years through fiscal year 2000 by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective with respect to sales agreements pursuant to sections 21 and 22 of the Arms Export Control Act (22 U.S.C. 2761 and 2762) entered into during the period beginning on October 1, 1996, and ending on September 30, 2000.

SEC. 305. PROCUREMENT INTEGRITY.

(a) AMENDMENT OF PROCUREMENT INTEGRITY PROVISION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended to read as follows:

''SEC. 27. RESTRICTIONS ON DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION.

''(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—(1) A person described in paragraph (2) shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

''(2) Paragraph (1) applies to any person who—

''(A) is a present or former officer or employee of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to, a Federal agency procurement; and

''(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

''(b) PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.—A person shall not, other than as provided by law, knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

''(c) PROHIBITION ON DISCLOSING OR OBTAINING PROCUREMENT INFORMATION IN CONNECTION WITH A PROTEST.—(1) A person shall not, other than as provided by law, knowingly violate the terms of a protective order described in paragraph (2) by disclosing or obtaining contractor bid or proposal information or source selection information related to the procurement contract concerned.

''(2) Paragraph (1) applies to any protective order issued by the Defense Board or the Civilian Board in connection with a protest against the award or proposed award of a Federal agency procurement contract.

''(d) PENALTIES AND ADMINISTRATIVE ACTIONS.—

''(1) CRIMINAL PENALTIES.—

''(A) Whoever engages in conduct constituting an offense under subsection (a), (b), or (c) shall be imprisoned for not more than one year or fined as provided under title 18, United States Code, or both.

''(B) Whoever engages in conduct constituting an offense under subsection (a), (b), or (c) for the purpose of either—

''(i) exchanging the information covered by such subsection for anything of value, or

''(ii) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract,

shall be imprisoned for not more than 15 years or fined as provided under title 18, United States Code, or both.

''(2) CIVIL PENALTIES.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under subsection (a), (b), or (c). Upon proof of such conduct by a preponderance of the evidence, the person is subject to a civil penalty. An individual who engages in such conduct is subject to a civil penalty of not more than $50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that engages in such conduct is subject to a civil penalty of not more than $500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

''(3) ADMINISTRATIVE ACTIONS.—(A) If a Federal agency receives information that a contractor or a person has engaged in conduct constituting an offense under subsection (a), (b), or (c), the Federal agency shall consider taking one or more of the following actions, as appropriate:

''(i) Cancellation of the Federal agency procurement, if a contract has not yet been awarded.

''(ii) Rescission of a contract with respect to which—

''(I) the contractor or someone acting for the contractor has been convicted for an offense under subsection (a), (b), or (c), or

''(II) the head of the agency that awarded the contract has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense.

''(iii) Initiation of suspension or debarment proceedings for the protection of the Government in accordance with procedures in the Federal Acquisition Regulation.

''(iv) Initiation of adverse personnel action, pursuant to the procedures in chapter 75 of title 5, United States Code, or other applicable law or regulation.

''(B) If a Federal agency rescinds a contract pursuant to subparagraph (A)(ii), the United States is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

''(C) For purposes of any suspension or debarment proceedings initiated pursuant to subparagraph (A)(iii), engaging in conduct constituting an offense under subsection (a), (b), or (c) affects the present responsibility of a Government contractor or subcontractor.

''(e) DEFINITIONS.—As used in this section:

''(1) The term 'contractor bid or proposal information' means any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

''(A) Cost or pricing data (as defined by section 2306a(h) of title 10, United States Code, with respect to procurements subject to that section, and section 304A(h) of Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(h), with respect to procurements subject to that section).

''(B) Indirect costs and direct labor rates.

''(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

''(D) Information marked by the contractor as 'contractor bid or proposal information', in accordance with applicable law or regulation.

''(2) The term 'source selection information' means any of the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

''(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

''(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

''(C) Source selection plans.

''(D) Technical evaluation plans.

''(E) Technical evaluations of proposals.

''(F) Cost or price evaluations of proposals.

''(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

''(H) Rankings of bids, proposals, or competitors.

''(I) The reports and evaluations of source selection panels, boards, or advisory councils.

''(J) Other information marked as 'source selection information' based on a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

''(3) The term 'Federal agency' has the meaning provided such term in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

''(4) The term 'Federal agency procurement' means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

''(5) The term 'contracting officer' means a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

''(6) The term 'protest' means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to title IV of the Federal Acquisition Reform Act of 1995.

''(f) LIMITATION ON PROTESTS.—No person may file a protest against the award or proposed award of a Federal agency procurement contract alleging an offense under subsection (a), (b), or (c), of this section, nor may the Defense Board or the Civilian Board consider such an allegation in deciding a protest, unless that person reported to the Federal agency responsible for the procurement information that the person believed constituted evidence of the offense no later than 14 days after the person first discovered the possible offense.

''(g) SAVINGS PROVISIONS.—This section does not—

''(1) restrict the disclosure of information to, or its receipt by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

''(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

''(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

''(4) prohibit individual meetings between a Federal agency employee and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur;

''(5) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

''(6) authorize the withholding of information from, nor restrict its receipt by, the Defense Board or the Civilian Board in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

''(7) limit the applicability of any requirements, sanctions, contract penalties, and remedies established under any other law or regulation.''.

(b) REPEALS.—The following provisions of law are repealed:

(1) Sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 33 of the Federal Energy Administration Act of 1974 (15 U.S.C. 789).

(3) Section 281 of title 18, United States Code.

(4) Subsection (c) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(5) The first section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5918).

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) The table of sections at the beginning of chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) Section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) is amended by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

SEC. 306. FURTHER ACQUISITION STREAMLINING PROVISIONS.

(a) PURPOSE OF OFFICE OF FEDERAL PROCUREMENT POLICY.—(1) Section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404) is amended to read as follows:

''(a) To promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government, there shall be an Office of Federal

Procurement Policy (hereinafter referred to as the 'Office') in the Office of Management and Budget to provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies.''.

(2) Sections 2 and 3 of such Act (41 U.S.C. 401 and 402) are repealed.

(b) REPEAL OF REPORT REQUIREMENT.—Section 8 of the Office of Federal Procurement Policy Act (41 U.S.C. 407) is repealed.

(c) REPEAL OF OBSOLETE PROVISIONS.—(1) Sections 10 and 11 of the Office of Federal Procurement Policy Act (41 U.S.C. 409 and 410) are repealed.

(d) CLERICAL AMENDMENTS.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by striking out the items relating to sections 2, 3, 8, 10, and 11.

SEC. 307. JUSTIFICATION OF MAJOR DEFENSE ACQUISITION PROGRAMS NOT MEETING GOALS.

Section 2220(b) of title 10, United States Code, is amended by adding at the end the following: ''In addition, the Secretary shall include in such annual report a justification for the continuation of any program that—

''(1) is more than 50 percent over the cost goal established for the development, procurement, or operational phase of the program;

''(2) fails to achieve at least 50 percent of the performance capability goals established for the development, procurement, or operational phase of the program; or

''(3) is more than 50 percent behind schedule, as determined in accordance with the schedule goal established for the development, procurement, or operational phase of the program.''.

SEC. 308. ENHANCED PERFORMANCE INCENTIVES FOR ACQUISITION WORKFORCE.

(a) ARMED SERVICES ACQUISITIONS.—Subsection (b) of section 5001 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3350; 10 U.S.C. 2220 note) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by designating the second sentence as paragraph (2);

(3) by inserting ''(1)'' after ''(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—''; and

(4) by adding at the end the following:

''(3) The Secretary shall include in the enhanced system of incentives the following:

''(A) Pay bands.

''(B) Significant and material pay and promotion incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the acquisition program in relation to cost goals, performance goals, and schedule goals.

''(C) Provisions for pay incentives and promotion incentives to be awarded under the system.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Subsection (c) of section 5051 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3351; 41 U.S.C. 263 note) is amended—

(1) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting ''(1)'' after ''(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—''; and

(4) by adding at the end the following:

''(2) The Deputy Director shall include in the enhanced system of incentives under paragraph (1)(B) the following:

''(A) Pay bands.

''(B) Significant and material pay and promotion incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the acquisition program in relation to cost goals, performance goals, and schedule goals.

''(C) Provisions for pay incentives and promotion incentives to be awarded under the system.''.

SEC. 309. RESULTS ORIENTED ACQUISITION PROGRAM CYCLE.

Section 5002(a) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3350) is amended—

(1) by inserting ''(1)'' before ''to ensure''; and

(2) by striking out the period at the end and inserting in lieu thereof the following: ''; (2) to ensure that the regulations compress the time periods associated with developing, procuring, and making operational new systems; and (3) to ensure that Department of Defense directives relating to development and procurement of information systems (numbered in the 8000 series) and the Department of Defense directives numbered in the 5000 series are consolidated into one series of directives that is consistent with such compressed time periods.''.

SEC. 310. RAPID CONTRACTING GOAL.

(a) GOAL.—The Office of Federal Procurement Policy Act, as amended by section 106, is further amended by adding at the end the following new section:

''SEC. 36. RAPID CONTRACTING GOAL.

''The Administrator for Federal Procurement Policy shall establish a goal of reducing by 50 percent the time necessary for executive agencies to acquire an item for the user of that item.''.

(b) CLERICAL AMENDMENT.—The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

''Sec. 36. Rapid contracting goal.''.

SEC. 311. ENCOURAGEMENT OF MULTIYEAR CONTRACTING.

(a) ARMED SERVICES ACQUISITIONS.—Section 2306b(a) of title 10, United States Code, is amended in the matter preceding paragraph (1) by striking out ''may'' and inserting in lieu thereof ''shall, to the maximum extent possible,''.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 304B(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c(a)) is amended in the matter preceding paragraph (1) by striking out ''may'' and inserting in lieu thereof ''shall, to the maximum extent possible,''.

SEC. 312. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.

(a) ARMED SERVICES ACQUISITIONS.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2306b the following new section:

''§ 2306c. Contractor share of gains and losses from cost, schedule, and performance experience

''The Federal Acquisition Regulation shall contain provisions to ensure that, for any cost-type contract or incentive-type contract, the contractor may be rewarded for contract performance exceeding the contract cost, schedule, or performance parameters to the benefit of the United States and may be penalized for failing to adhere to cost, schedule, or performance parameters to the detriment of the United States.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2306b the following new item:

''2306c. Contractor share of gains and losses from cost, schedule, and performance experience.''.

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304C the following new section:

''SEC. 304D. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.

''The Federal Acquisition Regulation shall contain provisions to ensure that, for any cost-type contract or incentive-type contract, the contractor may be rewarded for contract performance exceeding the contract cost, schedule, or performance parameters to the benefit of the United States and may be penalized for failing to adhere to cost, schedule, or performance parameters to the detriment of the United States.''.

(2) The table of contents for such Act, contained in section 1(b), is amended by inserting after the item relating to section 304C the following new item:

''Sec. 304D. Contractor share of gains and losses from cost, schedule, and performance experience.''.

SEC. 313. PHASE FUNDING OF DEFENSE ACQUISITION PROGRAMS.

Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2221. Funding for results oriented acquisition program cycle

''Before initial funding is made available for the development, procurement, or operational phase of an acquisition program for which an authorization of appropriations is required by section 114 of this title, the Secretary of Defense shall submit to Congress information about the objectives and plans for the conduct of that phase and the funding requirements for the entire phase. The information shall identify the intended user of the system to be acquired under the program and shall include objective, quantifiable criteria for assessing the extent to which the objectives and goals determined pursuant to section 2435 of this title are achieved.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2221. Funding for results oriented acquisition program cycle.''.

SEC. 314. IMPROVED DEPARTMENT OF DEFENSE CONTRACT PAYMENT PROCEDURES.

(a) REVIEW AND IMPROVEMENT OF PROCEDURES.—The Comptroller General of the United States shall review commercial practices regarding accounts payable and, considering the results of the review, develop standards for the Secretary of Defense to consider using for improving the contract payment procedures and financial management systems of the Department of Defense.

(b) GAO REPORT.—Not later than September 30, 1996, the Comptroller General shall submit to Congress a report containing the following matters:

(1) The weaknesses in the financial management processes of the Department of Defense.

(2) Deviations of the Department of Defense payment procedures and financial management systems from the standards developed pursuant to subsection (a), expressed quantitatively.

(3) The officials of the Department of Defense who are responsible for resolving the deviations.

SEC. 315. CONSIDERATION OF PAST PERFORMANCE IN ASSIGNMENT TO ACQUISITION POSITIONS.

(a) REQUIREMENT.—Section 1701(a) of title 10, United States Code, is amended by adding at the end the following: ''The policies and procedures shall provide that education and training in acquisition matters, and past performance of acquisition responsibilities, are major factors in the selection of personnel for assignment to acquisition positions in the Department of Defense.''.

(b) PERFORMANCE REQUIREMENTS FOR ASSIGNMENT.—(1) Section 1723(a) of title 10, United States Code, is amended by inserting '', including requirements relating to demonstrated past performance of acquisition duties,'' in the first sentence after ''experience requirements''.

(2) Section 1724(a)(2) of such title is amended by inserting before the semicolon at the end the

following: ''and have demonstrated proficiency in the performance of acquisition duties in the contracting position or positions previously held''.

(3) Section 1735 of such title is amended—

(A) in subsection (b)—

(i) by striking out ''and'' at the end of paragraph (2);

(ii) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ''; and''; and

(iii) by adding at the end the following:

''(4) must have demonstrated proficiency in the performance of acquisition duties.'';

(B) in subsection (c)—

(i) by striking out ''and'' at the end of paragraph (2);

(ii) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ''; and''; and

(iii) by adding at the end the following:

''(4) must have demonstrated proficiency in the performance of acquisition duties.'';

(C) in subsection (d), by inserting before the period at the end the following: '', and have demonstrated proficiency in the performance of acquisition duties''; and

(D) in subsection (e), by inserting before the period at the end the following: '', and have demonstrated proficiency in the performance of acquisition duties''.

SEC. 316. ADDITIONAL DEPARTMENT OF DEFENSE PILOT PROGRAMS.

(a) ADDITIONAL PROGRAM AUTHORIZED FOR PARTICIPATION IN DEFENSE ACQUISITION PILOT PROGRAM.—Section 5064 of the Federal Acquisition Streamlining Act of 1994 (P.L. 103–355; 108 Stat. 3359) is amended as follows:

(1) Subsection (a) is amended by adding at the end the following new paragraph:

''(6) JOINT STANDOFF WEAPON UNITARY VARIANT (JSOW-UV).—The Joint Standoff Weapon Unitary Variant program with respect to all contracts directly related to the development and procurement of an air-delivered, standoff weapon that incorporates a global positioning system-aided inertial navigation system, a data link capability, and a unitary warhead.''.

(2) Subsection (c) is amended—

(A) by striking out ''and'' at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new paragraph:

''(3) with respect to the program described in subsection (a)(6)—

''(A) to apply any amendment or repeal of a provision of law made in the Federal Acquisition Reform Act of 1995 to the pilot program before the effective date of such amendment or repeal; and

''(B) to apply to a procurement of items other than commercial items under such program any waiver or exception applicable under the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) or the Federal Acquisition Reform Act of 1995 (or an amendment made by a provision of either Act) in the case of commercial items before the effective date of such provision (or amendment), to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.''.

(b) DEFENSE ACQUISITION FACILITY-WIDE PILOT PROGRAM.—

(1) AUTHORITY TO CONDUCT FACILITY-WIDE PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program, to be known as the ''defense facility-wide pilot program'', for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in facilities.

(2) SCOPE OF PROGRAM.—At a facility designated as a participant in the pilot program, the pilot program shall consist of the following:

(A) All contracts and subcontracts for defense supplies and services that are performed at the facility.

(B) All contracts and subcontracts performed elsewhere that the Secretary determines are directly and substantially related to the production of defense supplies and services at the facility and are necessary for the pilot program.

(3) DESIGNATION OF PARTICIPATING FACILITIES.—(A) The Secretary may designate up to three facilities as participants in the defense facility-wide pilot program.

(B) Subject to paragraph (7), the Secretary may determine the scope and duration of a designation made under this paragraph.

(4) CRITERIA FOR DESIGNATION.—The Secretary may designate a facility under paragraph (3) only if the Secretary determines that all or substantially all of the contracts to be awarded and performed at the facility after the designation, and all or substantially all of the subcontracts to be awarded under those contracts and performed at the facility after the designation, will be—

(A) for the production of supplies or services on a firm-fixed price basis;

(B) awarded without requiring the contractors or subcontractors to provide certified cost or pricing data pursuant to section 2306a of title 10, United States Code; and

(C) awarded and administered without the application of cost accounting standards under section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)).

(5) EXEMPTION FROM CERTAIN REQUIREMENTS.—In the case of a contract or subcontract that is to be performed at a facility designated for participation in the defense facility-wide pilot program and that is subject to section 2306a of title 10, United States Code, or section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)), the Secretary of Defense may exempt such contract or subcontract from the requirement to obtain certified cost or pricing data under such section 2306a or the requirement to apply mandatory cost accounting standards under such section 26(f) if the Secretary determines that the contract or subcontract—

(A) is within the scope of the pilot program (as described in paragraph (2)); and

(B) is fairly and reasonably priced based on information other than certified cost and pricing data.

(6) SPECIAL AUTHORITY.—The authority provided under paragraph (1) may include authority for the Secretary of Defense—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(B) to apply to a procurement of items other than commercial items under such program—

(i) any authority provided in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (or in an amendment made by a provision of that Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under this Act or the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (or an amendment made by a provision of either Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(7) APPLICABILITY.—(A) Paragraphs (5) and (6) apply with respect to—

(i) a contract that is awarded or modified during the period described in subparagraph (B); and

(ii) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(B) The period referred to in subparagraph (A) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

(8) COMMERCIAL PRACTICES ENCOURAGED.—With respect to contracts and subcontracts within the scope of the defense facility-wide pilot program, the Secretary of Defense may, to the extent the Secretary determines appropriate and in accordance with the law, adopt commercial practices in the administration of contracts and subcontracts. Such commercial practices may include elimination of Government audit and access to records provisions; incorporation of commercial oversight, inspection, and acceptance procedures; use of alternative dispute resolution techniques (including arbitration); and elimination of contract provisions authorizing the Government to make unilateral changes to contracts.

SEC. 317. VALUE ENGINEERING FOR FEDERAL AGENCIES.

(a) USE OF VALUE ENGINEERING.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 310, is further amended by adding at the end the following new section:

''SEC. 37. VALUE ENGINEERING.

''(a) IN GENERAL.—Each executive agency shall establish and maintain effective value engineering procedures and processes.

''(b) THRESHOLD.—The procedures and processes established pursuant to subsection (a) shall be applied to those programs, projects, systems, and products of an executive agency that, in a ranking of all programs, projects, systems, and products of the agency according to greatest dollar value, are within the highest 20th percentile.

''(c) DEFINITION.—As used in this section, the term 'value engineering' means a team effort, performed by qualified agency or contractor personnel, directed at analyzing the functions of a program, project, system, product, item of equipment, building, facility, service, or supply for the purpose of achieving the essential functions at the lowest life-cycle cost that is consistent with required or improved performance, reliability, quality, and safety.''.

(b) CLERICAL AMENDMENT.—The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

''Sec. 37. Value engineering.''.

SEC. 318. ACQUISITION WORKFORCE.

(a) ACQUISITION WORKFORCE.—(1) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 317, is further amended by adding at the end the following new section:

''SEC. 38. ACQUISITION WORKFORCE.

''(a) APPLICABILITY.—This section does not apply to an executive agency that is subject to chapter 87 of title 10, United States Code.

''(b) MANAGEMENT POLICIES.—

''(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator for Federal Procurement Policy, shall establish policies and procedures for the effective management (including accession, education, training, career development, and performance incentives) of the acquisition workforce of the agency. The development of acquisition workforce policies under this section shall be carried out consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code.

''(2) UNIFORM IMPLEMENTATION.—The head of each executive agency shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established are uniform in their implementation throughout the agency.

''(3) GOVERNMENT-WIDE POLICIES AND EVALUATION.—The Administrator shall issue policies to promote uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator

shall coordinate with the Deputy Director for Management of the Office of Management and Budget to ensure that such policies are consistent with the policies and procedures established and enhanced system of incentives provided pursuant to section 5051(c) of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 263 note). The Administrator shall evaluate the implementation of the provisions of this section by executive agencies.

''(c) SENIOR PROCUREMENT EXECUTIVE AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an executive agency, the senior procurement executive of the agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this section. The senior procurement executive shall ensure that the policies of the head of the executive agency established in accordance with this section are implemented throughout the agency.

''(d) MANAGEMENT INFORMATION SYSTEMS.—The Administrator shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition workforce related to implementation of this section. To the maximum extent practicable, such data requirements shall conform to standards established by the Office of Personnel Management for the Central Personnel Data File.

''(e) ACQUISITION WORKFORCE.—The programs established by this section shall apply to all employees in the General Schedule Contracting series (GS–1102) and the General Schedule Purchasing series (GS–1105), and to any employees regardless of series who have been appointed as contracting officers whose authority exceeds the micro-purchase threshold, as that term is defined in section 32(g). The head of each executive agency may include employees in other series who perform acquisition or acquisition-related functions.

''(f) CAREER DEVELOPMENT.—

''(1) CAREER PATHS.—The head of each executive agency shall ensure that appropriate career paths for personnel who desire to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior acquisition positions. The head of each executive agency shall make information available on such career paths.

''(2) CRITICAL DUTIES AND TASKS.—For each career path, the head of each executive agency shall identify the critical acquisition-related duties and tasks in which, at minimum, employees of the agency in the career path shall be competent to perform at full performance grade levels. For this purpose, the head of the executive agency shall provide appropriate coverage of the critical duties and tasks identified by the Director of the Federal Acquisition Institute.

''(3) MANDATORY TRAINING AND EDUCATION.—For each career path, the head of each executive agency shall establish requirements for the completion of course work and related on-the-job training in the critical acquisition-related duties and tasks of the career path. The head of each executive agency shall also encourage employees to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities.

''(4) PERFORMANCE INCENTIVES.—The head of each executive agency, acting through the senior procurement executive for the agency, shall provide for an enhanced system of incentives for the encouragement of excellence in the acquisition workforce which rewards performance of employees that contribute to achieving the agency's performance goals. The system of incentives shall include provisions that—

''(A) relate pay to performance;

''(B) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel contributed to achieving the agency's performance goals; and

''(C) provide pay and promotion incentives to be awarded, and unfavorable personnel actions to be imposed, under the system on the basis of the contributions of personnel to achieving the agency's performance goals.

''(g) QUALIFICATION REQUIREMENTS.—

''(1) GENERAL SCHEDULE CONTRACTING SERIES (GS–1102).—

''(A) ENTRY LEVEL QUALIFICATIONS.—The Director of the Office of Personnel Management shall require that, after October 1, 1996, a person may not be appointed to a position in the GS–1102 occupational series unless the person—

''(i) has received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees,

''(ii) has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management, or

''(iii) has passed a written test determined by the Administrator for Federal Procurement Policy, after consultation with the Director of the Office of Personnel Management, to demonstrate the judgmental skills necessary for positions in this series.

''(B) QUALIFICATIONS FOR SENIOR CONTRACTING POSITIONS.—The Director of the Office of Personnel Management shall require that, after October 1, 1996, persons may be appointed to positions at and above full performance grade levels in the GS–1102 occupational series only if those persons—

''(i) have satisfied the educational requirement either of subparagraph (A)(i) or (A)(ii),

''(ii) have successfully completed all training required for the position under subsection (f)(3), and

''(iii) have satisfied experience and other requirements established by the Director for such positions.

However, this requirement shall apply to persons employed on October 1, 1996, in GS–1102 positions at those grade levels only as a prerequisite for promotion to a GS–1102 position at a higher grade.

''(2) GENERAL SCHEDULE PURCHASING SERIES (GS–1105).—The Director of the Office of Personnel Management shall require that, after October 1, 1996, a person may not be appointed to a position in the GS–1105 occupational series unless the person—

''(A) has successfully completed 2 years of course work from an accredited educational institution authorized to grant degrees, or

''(B) has passed a written test determined by the Administrator for Federal Procurement Policy, after consultation with the Director of the Office of Personnel Management, to demonstrate the judgmental skills necessary for positions in this series.

''(3) CONTRACTING OFFICERS.—The head of each executive agency shall require that, beginning after October 1, 1996, a person may be appointed as a contracting officer with authority to award or administer contracts for amounts above the micro-purchase threshold, as that term is defined in section 32(g), only if the person—

''(A) has successfully completed all mandatory training required of an employee in an equivalent GS–1102 or 1105 position under subsection (f)(3); and

''(B) meets experience and other requirements established by the head of the agency, based on the dollar value and complexity of the contracts that the employee will be authorized to award or administer under the appointment as a contracting officer.

''(4) EXCEPTIONS.—(A) The requirements set forth in paragraphs (1) and (2), as applicable, shall not apply to any person employed in the GS–1102 or GS–1105 series on October 1, 1996.

''(B) Employees of an executive agency who do not satisfy the full qualification requirements for appointment as a contracting officer under paragraph (3) may be appointed as a contracting officer for a temporary period of time under procedures established by the agency head. The procedures shall—

''(i) require that the person have completed a significant portion of the required training,

''(ii) require a plan be established for the balance of the required training,

''(iii) specify a period of time for completion of the training, and

''(iv) include provisions for withdrawing or terminating the appointment prior to the scheduled expiration date, where appropriate.

''(5) WAIVER.—The senior procurement executive for an executive agency may waive any or all of the qualification requirements of paragraphs (1) and (2) for a person if the person possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. This authority may not be redelegated by the senior procurement executive. With respect to each waiver granted under this subsection, the senior procurement executive shall set forth in writing the rationale for the decision to waive such requirements.

''(h) PROGRAM ESTABLISHMENT AND IMPLEMENTATION.—

''(1) FUNDING LEVELS.—(A) The head of an executive agency shall request in the budget for a fiscal year for the agency—

''(i) for education and training under this section, an amount equal to no less than 2.5 percent of the base aggregate salary cost of the acquisition workforce subject to this section for that fiscal year; and

''(ii) for salaries of the acquisition workforce, an amount equal to no more than 97.5 percent of such base aggregate salary cost.

''(B) The head of the executive agency shall set forth separately the funding levels requested in the budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code.

''(C) Funds appropriated for education and training under this section may not be obligated or used for any other purpose.

''(2) INTERAGENCY AGREEMENTS.—The head of an executive agency may enter into a written agreement with another agency to participate in programs established under this section on a reimbursable basis.

''(3) TUITION ASSISTANCE.—Notwithstanding the prohibition in section 4107(b) of title 5, United States Code, the head of each executive agency may provide for tuition reimbursement and education (including a full-time course of study leading to a degree) for acquisition personnel in the agency related to the purposes of this section.

''(4) INTERN PROGRAMS.—The head of each executive agency may establish intern programs in order to recruit highly qualified and talented individuals and provide them with opportunities for accelerated promotions, career broadening assignments, and specified training for advancement to senior acquisition positions. For such programs, the head of an executive agency, without regard to the provisions of title 5, United States Code, may appoint individuals to competitive GS–5, GS–7, or GS–9 positions in the General Schedule Contracting series (GS–1102) who have graduated from baccalaureate or master's programs in purchasing or contracting from accredited educational institutions authorized to grant baccalaureate and master's degrees.

''(5) COOPERATIVE EDUCATION PROGRAM.—The head of each executive agency may establish an agencywide cooperative education credit program for acquisition positions. Under the program, the head of the executive agency may enter into cooperative arrangements with one or more accredited institutions of higher education

which provide for such institutions to grant undergraduate credit for work performed in such position.

''(6) SCHOLARSHIP PROGRAM.—

''(A) ESTABLISHMENT.—Where deemed appropriate, the head of each executive agency may establish a scholarship program for the purpose of qualifying individuals for acquisition positions in the agency.

''(B) ELIGIBILITY.—To be eligible to participate in a scholarship program established under this paragraph by an executive agency, an individual must—

''(i) be accepted for enrollment or be currently enrolled as a full-time student at an accredited educational institution authorized to grant baccalaureate or graduate degrees (as appropriate);

''(ii) be pursuing a course of education that leads toward completion of a bachelor's, master's, or doctor's degree (as appropriate) in a qualifying field of study, as determined by the head of the agency;

''(iii) sign an agreement described in subparagraph (C) under which the participant agrees to serve a period of obligated service in the agency in an acquisition position in return for payment of educational assistance as provided in the agreement; and

''(iv) meet such other requirements as the head of the agency prescribes.

''(C) AGREEMENT.—An agreement between the head of an executive agency and a participant in a scholarship program established under this paragraph shall be in writing, shall be signed by the participant, and shall include the following provisions:

''(i) The agreement of the head of the agency to provide the participant with educational assistance for a specified number of school years, not to exceed 4, during which the participant is pursuing a course of education in a qualifying field of study. The assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

''(ii) The participant's agreement—

''(I) to accept such educational assistance,

''(II) to maintain enrollment and attendance in the course of education until completed,

''(III) while enrolled in such course, to maintain an acceptable level of academic standing (as prescribed by the head of the agency), and

''(IV) after completion of the course of education, to serve as a full-time employee in an acquisition position in the agency for a period of time of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the program.

''(D) REPAYMENT.—(i) Any person participating in a program established under this paragraph shall agree to pay to the United States the total amount of educational assistance provided to the person under the program if the person is voluntarily separated from the agency or involuntarily separated for cause from the agency before the end of the period for which the person has agreed to continue in the service of the agency in an acquisition position.

''(ii) If an employee fails to fulfill the agreement to pay to the Government the total amount of educational assistance provided to the person under the program, a sum equal to the amount of the educational assistance may be recovered by the Government from the employee (or the estate of the employee) by setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and by such other method as is provided by law for the recovery of amounts owing to the Government.

''(iii) The head of an executive agency may waive in whole or in part a repayment required under this paragraph if the head of the agency determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

''(E) TERMINATION OF AGREEMENT.—There shall be no requirement that a position be offered to a person after such person successfully completes a course of education required by an agreement under this paragraph. If no position is offered, the agreement shall be considered terminated.''.

(2) The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

''Sec. 38. Acquisition workforce.''.

(b) ADDITIONAL AMENDMENTS.—Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405), is amended—

(1) in subparagraph (A), by striking out ''Government-wide career management programs for a professional procurement work force'' and inserting in lieu thereof ''the development of a professional acquisition workforce Government-wide'';

(2) in subparagraph (B)—

(A) by striking out ''procurement by the'' and inserting in lieu thereof ''acquisition by the''; and

(B) by striking out ''and'' at the end of the subparagraph; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

''(C) administer the provisions of section 38;

''(D) collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;

''(E) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;

''(F) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;

''(G) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;

''(H) evaluate the effectiveness of training and career development programs for acquisition personnel;

''(I) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;

''(J) facilitate, to the extent requested by agencies, interagency intern and training programs; and

''(K) perform other career management or research functions as directed by the Administrator.''.

Mr. CLINGER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. WELLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1670) to revise and streamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none, and without and objection appoints the following conferees: Messrs. YOUNG of Florida, MCDADE, LIVINGSTON, LEWIS of California, SKEEN, HOBSON, BONILLA, NETHERCUTT, NEUMANN, MURTHA, DICKS, WILSON, HEFNER, SABO, and OBEY.

There was no objection.

MOTION TO CLOSE PORTIONS OF CONFERENCE COMMITTEE MEETINGS ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves, pursuant to rule xxviii (28), clause 6(a) of the House rules, that the conference meetings between the House and the Senate on the bill, H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, be closed to the public at such times as classified national security information is under consideration; provided, however, that any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. YOUNG].

Under the rule on this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 414, nays 2, not voting 18, as follows:

[Roll No. 661]

YEAS—414

Abercrombie	Boucher	Collins (MI)
Allard	Brewster	Combest
Andrews	Browder	Condit
Archer	Brown (CA)	Conyers
Armey	Brown (FL)	Cooley
Bachus	Brown (OH)	Costello
Baesler	Brownback	Coyne
Baker (CA)	Bryant (TN)	Cramer
Baker (LA)	Bryant (TX)	Crane
Baldacci	Bunn	Crapo
Ballenger	Bunning	Cremeans
Barcia	Burr	Cubin
Barr	Burton	Cunningham
Barrett (NE)	Buyer	Danner
Barrett (WI)	Callahan	Davis
Bartlett	Calvert	Deal
Barton	Camp	DeLauro
Bass	Canady	DeLay
Bateman	Cardin	Dellums
Becerra	Castle	Deutsch
Beilenson	Chabot	Diaz-Balart
Bentsen	Chambliss	Dickey
Bereuter	Chapman	Dicks
Bevill	Chenoweth	Dingell
Bilbray	Christensen	Dixon
Bilirakis	Chrysler	Doggett
Bishop	Clay	Dooley
Bliley	Clayton	Doolittle
Blute	Clement	Dornan
Boehlert	Clinger	Doyle
Boehner	Clyburn	Dreier
Bonilla	Coble	Duncan
Bonior	Coburn	Dunn
Bono	Coleman	Durbin
Borski	Collins (IL)	Edwards